

Dear Lawyer Bao: Everyday Problems, Legal Advice, and State Power in China

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This article presents findings from a content analysis of all 460 "Dear Lawyer Bao" (DLB) legal advice columns published in its ten-year history (1989–98) in the Beijing Evening News. While much sociolegal research has focused on the exercise of power in the legal process through the control of meaning in verbal, private face-to-face interactions, this article reveals similar meaning-making processes at play in publicly disseminated writing where the audience is far larger, the potential impact far wider, and the role of the state far greater. Lawyer Bao's popular image as valiant defender of ordinary people in trouble obscured and thus enhanced both the degree to which he was beholden to the state and the effectiveness with which he did the bidding of the state against the interests of the very letter-writers he purported to help. His ultimate allegiance to the state is reflected in two empirical patterns. First, the temporal distribution of problem topics featured in the DLB column corresponds less to shifts in public sentiment or objective popular needs and more to legislation, policy shifts, and political campaigns. Second, whether Lawyer Bao legitimized or delegitimized letter-writers' claims was determined primarily by the extent to which state interests were at stake in the problem at hand. Lawyer Bao tended to delegitimize labor grievances, housing demolition grievances, collective grievances of any kind, and other claims construed as potentially destabilizing or of challenge to state priorities. Keywords: Chinese law, lawyers, legal consciousness, legal culture, media frames.

For ten years newspaper readers in Beijing engaged the state by engaging Lawyer Bao, a legal advice columnist in the *Beijing Evening News* (*BEN*). In its ten-year history between 1989 and 1998, the Dear Lawyer Bao (DLB) column served as a weekly forum for the articulation of everyday grievances directed not only against other individuals but also against state actors, state organizations, and state policies. In a context in which legal institutions have been rebuilt largely from scratch since 1979 (Alford 1999; Lubman 1999; Peerenboom 2002), Lawyer Bao's official mandate was to educate ordinary people about China's rapidly developing legal system and to encourage its use.

How has the Chinese state endeavored to adapt to such a rapidly transforming institutional environment in which the expansion and popular mobilization of the legal system poses a potential challenge to the political supremacy of the Chinese Communist Party (CCP)? We will see that meaning-making efforts in the mass media are an important part of the state's strategy. Results I present in this article of a content analysis of all 460 DLB columns contribute to three interrelated research literatures. First, this article contributes to sociolegal research on how lawyers exercise power through the control of legal meaning (Cain 1979; Hosticka 1979; Kritzer 1998; Mather, McEwen, and Maiman 2001; Mather and Yngvesson 1980–81; Michelson 2006; Rosenthal 1974; Sarat and Felstiner 1995). The DLB

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columns demonstrate that not only the *professional* power of lawyers but the *political* power of the state, too, is advanced through efforts to control legal meaning and the definition of legal reality.

Second, this article contributes to sociological research on the role of media frames both in the social construction of social problems (Beckett 1996; Benson and Saguy 2005; Ferree et al. 2002; Gamson and Modigliani 1989; Perrin 2005) and in the reproduction of state power (Altheide 2002, 2006; Gitlin 1980; Glassner 1999; Herman and Chomsky 1988). By virtue of its greater popular exposure through newspapers and other mass media, *public* legal advice has a wider and more politically significant impact than *private* legal advice. Language enhances and obscures awareness of legal rights, it legitimizes and delegitimizes popular claims, and it thus facilitates and denies access to justice. While the existing research on the uses and abuses of “law talk,” as a means of controlling the situation and exercising power, focuses on verbal discourse in private face-to-face interactions, written discourse publicly disseminated in the mass media amplifies meaning-making dynamics at play in private settings.

Third, by identifying the state as a key performer and beneficiary of “boundary work” (Gieryn 1999; Lamont 2000), the DLB columns also build on and extend sociological research on the social construction of boundaries. Lawyer Bao performed boundary work on behalf of the state through his discursive efforts to define the scope of the law, through his use of language to define the sorts of everyday problems that can and cannot legitimately avail themselves of legal remedies. In his efforts to demarcate the boundaries of law, Lawyer Bao defined claims against state interests as unlawful and illegitimate, and in so doing helped defend the boundaries of state power. Lawyer Bao, in the service of the state, both educated and miseducated readers about the boundaries of law.

Two empirical patterns emerge from the content analysis of DLB columns: First, we will see that the *BEN*, like newspapers everywhere, exercised gatekeeping authority (Perrin 2005; Wahl-Jorgensen 2001): Problem types were carefully selected for public consumption. Lawyer Bao’s shifting choices of topics to publish was less a function of their shifting *popular* salience and more a function of their shifting *political* salience. Second, we will see that, more often than not, when responding to queries about disputes with state organizations, Lawyer Bao negated the legal legitimacy of letter-writers’ claims. In particular, Lawyer Bao tended to delegitimize labor grievances, housing demolition complaints, and collective grievances of any kind.

In an introductory article accompanying the inaugural DLB column on January 5, 1989, Song Xi, the column’s editor wrote:

As society advances toward a system of law, every citizen needs to strengthen his or her conception of the legal system, raise his or her legal awareness, and know the law, understand the law, adhere to the law, and use the law . . . This special-topic page should . . . [tell] readers in a variety of ways what kinds of actions are lawful and unlawful and how to use the weapon of the law to protect themselves (p. 2).

However, the very matter of “what kinds of actions are lawful and unlawful” and of how ordinary people should “use the weapon of the law to protect themselves” cannot be transparently inferred from the law on the books, but is instead more fruitfully understood as constitutive of—and socially constructed through—the discursive struggles of interested actors (Ewick and Silbey 1998; Yngvesson 1993). As Steven Lukes ([1974] 2005) argued over thirty years ago, the exercise of power through the manipulation of meaning—by shaping perceptions of injuries, grievances, and the appropriateness of channels of redress—is both more effective and more nefarious than the exercise of power through coercion or bureaucratic fiat. Not only is language often the weapon of choice in hotly-contested struggles over the meaning of a “legal problem” and “legal reality,” but the state is often an active participant in these discursive struggles that constitute law (Bourdieu 1987, 1991). Insofar as the state’s role in popular legal meaning-making processes is magnified in authoritarian contexts, the

case of China helps bring into sharper focus forces that are less prominent—but nonetheless at work to varying degrees—in the liberal democratic cases that are the basis of most of the existing research on lawyers, legal consciousness, media frames, and boundary work.

Institutional Change, Popular Resistance, and Legal Advice

The DLB column must be read in the context of China's tumultuous transition away from socialism. They show clashing principles and clashing systems of rights and entitlements. They show an urban population socialized to expect cradle-to-grave welfare and protection. These expectations were often articulated as rights, such as the right to public education and health care, the right to lifetime employment, the right to public housing, and the right to a retirement pension. In the wake of the dismantling of Maoist institutions ongoing since the 1980s, and with them their ideological underpinnings, the DLB columns reveal how these socialist entitlements are under assault by new market principles emphasizing individual responsibility, self-reliance, and transactional relationships. In short, the DLB columns reflect the Durkheimian themes of weakening traditional norms and social controls under rapid social change and of the concomitant turn to new solutions, including the law. They fit the narrative of the "the oven bird's song": a lament of the breakdown of primordial relationships and of the rise of impersonal legal institutions, "a nostalgic yearning for the older world view now shattered beyond repair" (Engel 1984:579). They reflect a growing reliance on outside authorities (including newspapers and the law) to fill what is popularly articulated as a normative and moral void left in the wake of the collapse of close-knit neighborhoods, workplace paternalism, durable social relationships, and strong families under the relentless pressures of economic reform and globalization.

In such a context of institutional transformation, the very definition of a legitimate grievance is ambiguous, fluid, and contested. Contemporary China thus bears all the hallmarks of "contradictory institutional logics" (Friedland and Alford 1991), "normative ambiguity" (Smelser 1962), or "unsettled cultural times" (Swidler 1986). Moreover, the multiplicity of options available to disgruntled individuals and the contested legitimacy of these competing channels of dispute resolution are the hallmarks of legal pluralism (Galanter 1981; Merry 1988). The DLB columns reflect an urgent groping for clarity under conditions of uncertainty. They concern issues at the core of human life in most parts of the world, including property ownership, rights of residence, obligations to family members, and losing and finding work. Letter-writers frequently asked: "Is this reasonable?" "What does the law stipulate?" "Does the law contain any relevant provisions?" "Does the law permit this?" "Is this correct?" "Is this behavior lawful?" "Can this situation be resolved through legal channels?" "How can we use legal measures to protect our rights and interests?"

Letters to newspapers anywhere in time and place afford a view both of efforts to assert claims and of efforts to strip such claims of their legitimacy. Newspaper advice columns are a public cultural space in which ordinary people and state actors use competing sets of vocabularies—or discourses—to define reality in a manner consistent with their interests, values, and taken-for-granted assumptions about the social world. As a vehicle of meaning making and as a site of meaning making, newspaper advice columns can be empowering and disempowering, they can enhance and deprive access to justice, and they can be cognitively liberating and cognitively obfuscating.

Newspaper advice columns everywhere provide guidance to people navigating new and unfamiliar terrain. In a context of social dislocation, social transplantation, or social transformation, newspaper columns provide a channel not only for the acquisition of practical advice, but also for the expression of complaints, grievances, and heartache (Lewis 1998; Metzker 1971, 1981). But letters to the editor are of special significance in the socialist context. The *People's Daily* handled between 60,000 and 70,000 letters per month in 1979 and

1980, many of which were compiled into daily and special digests for the consumption of government leaders (Shi 1997:64; Whyte and Parish 1984:297). In 1980, the same year it resumed publication after being shut down during the Cultural Revolution (1966–76), the *BEN* received about 9,000 letters per month (Whyte and Parish 1984:297). Later in the 1980s, between 30,000 and 50,000 “readers’ letters” (*duzhe lai xin*) were processed monthly by the *People’s Daily* (Hood 1994:41). The top Soviet newspapers, meanwhile, were receiving about 40,000 letters per month in the late 1970s and early 1980s (Riordan and Bridger 1992:2–3).

In the socialist context, newspaper “mailboxes” are a safety valve for releasing steam; they allow ordinary people to attack government bureaucrats and party leaders without threatening either the regime or the party (Inkeles 1958:209, 217–8; Inkeles and Geiger 1952, 1953; Whyte and Parish 1984:297, note 37). At the same time, letters to newspapers are an important barometer of public opinion and a source of information for government leaders about popular complaints (Nathan 1985:154). But newspapers are also responsible for taking the initiative to investigate and redress many problems reported by citizens. Public ombudsman is a well-known role played by newspapers in the socialist context (Chu and Chu 1981:84–5; Hood 1994:40–1; Inkeles 1958:209–12; Riordan and Brigger 1992:4; Whyte and Parish 1984:297). Newspapers in China served and continue to serve this function. Aggrieved individuals, often in groups, continue to throng to media outlets in the hopes of an opportunity to publicize their alleged injustices (Bernstein and Lü 2003:177–8, 185; O’Brien and Li 2006). It is often through their written appeals to the media that petitioners resist the state organizations, state actors, and state policies they perceive as unfair and unrightful.

By educating readers about Chinese law, the DLB column supported China’s ongoing “legal popularization” (*pu fa*) campaign (see Troyer 1989). In all 460 columns, Lawyer Bao explicitly cited 169 specific legal statutes (bodies of law, regulations, administrative measures and provisions, government notices and circulars, legal opinions, and so on). In 88 percent of columns, he explicitly cited at least one such legal statute or opinion. In over half (53 percent) he cited only one legal statute, but in many (26 percent) he cited two, and in several (8 percent) he cited three or more (and in the remaining 12 percent he cited none).

Lawyer Bao helped reshape, adapt, and update the socialist-era newspaper “mailbox” to serve new needs. In so doing he helped spawn a popular genre of public legal advice that has become a ubiquitous feature of newspapers across China. Similar legal advice columns are found not only in major national newspapers like the *People’s Daily*, the *Legal Daily*, the *Liberation Daily*, and the *Farmers’ Daily*, and not only in major national magazines like *Democracy and Legal System* (see Davis and Lu 2003 and Liu 2007), but also in popular local newspapers including the *Yangcheng Evening News* (in Guangzhou), the *Jin Evening News* (in Tianjin), and the *New Evening News* (in Harbin).¹

Throughout the analysis that follows I cite DLB columns by their dates of publication (in day/month/year format).

Who is Lawyer Bao?

The final DLB column in its original question-and-answer format was published on August 13, 1998, 493 weeks, or precisely nine and a half years after its debut on January 5, 1989. In this period of time, Lawyer Bao made 460 appearances, each on a Thursday. Commencing on August 20, 1998, the format of the column changed to a court case summary followed by Lawyer Bao’s explanation of the judgment, and the name of the column was

1. I have also encountered legal advice columns in the *Gansu Daily* (in Lanzhou, Gansu Province), the *Chengde Daily* (in Chengde, Hebei Province), the *Meizhou Daily* (in Meizhou, Guangdong Province), the *Yingtian Daily* (in Yingtian, Jiangxi Province), the *Yulin Daily* (in Yulin, Guangxi Province), and the *Enshi Daily* (in Enshi, Hubei Province).

changed to reflect its new format: “Lawyer Bao’s Selection and Discussion” (*Bao Lüshi Dian Ping*). The end of the DLB column’s mailbox format coincides with the departure of Song Xi, the editor who gave birth to and nurtured Lawyer Bao for the first ten years of his life. In mid-1998, Song Xi was promoted to the position of deputy editor-in-chief of the *Beijing Morning Post* (the inaugural edition of which was published on July 20, 1998), a new sister newspaper established by the owner of the *BEN*, viz, the Beijing Daily News Group, which also owns the *Beijing Daily*, the official newspaper of the Beijing Municipal Committee of the CCP. As often happens with leadership changes in China (see Cai 2004), Song’s successor changed Lawyer Bao’s image. Lawyer Bao retired altogether on January 1, 2004. The official announcement of his retirement states that, after 15 years and 780 weeks, the DLB column “completed its historical mission and is bidding farewell to its readers” (Huo 2003).

Through his years of service to the public, Lawyer Bao also provided valuable service to the *BEN*, to the state, and to the CCP. Lawyer Bao seamlessly balanced the new commercial needs and the enduring political needs of Chinese newspapers in the transition from socialism. Infotainment—lurid tales of premarital sex, out-of-wedlock pregnancies, marital infidelity, and grisly crimes packaged under the legitimizing cover of public education—has allowed newspapers like the *BEN* to satisfy its economic needs while simultaneously satisfying the political needs of the state. In the 1990s, as Chinese newspapers became more bottom-line oriented in the face of intensifying competition and fiscal reform, content in the crime and justice tabloid genre, among other sensational and sleazy genres, became increasingly prominent (Kinkley 2000; McCormick 2002–2003; Zha 1995; Zhao 1998, 2002).

But Lawyer Bao was also of enormous service to the law firms using his name. Practicing lawyers took responsibility for the DLB column on a pro bono basis in exchange for the advertising value of a small banner printed in the column containing their legal advice “hotline” (*re xian*) telephone numbers. Their work for the *BEN* fueled their legal practice. The letters, phone calls, and visits that supplied grist for the DLB mill was also the basis of their professional livelihood. At first the Beijing Number One Legal Service Office of Chongwen District—which represented itself publicly as the “*BEN*’s Dear Lawyer Bao Law Firm”—was solely responsible for the DLB column. The firm’s lawyers were conscripted to man the hotline telephones and face-to-face consultation rooms. In exchange for this mandatory service, they were given first dibs on the prospective clients with whom they spoke. They also cherry-picked cases from the stacks of letters that arrived weekly to Lawyer Bao.

A survey I conducted in the summer of 2000 of almost 500 lawyers in 131 law firms in Beijing captures the sheer extent to which legal work at the DLB Law Firm revolved around the hotline consultation service. Responses to a battery of eleven questions about sources of clients show that here, more than in other law firms, the hotline structured legal practice. Whereas “telephone hotline” was the most important source of clients among the 17 lawyers in the DLB Law Firm who completed survey questionnaires, it was only the seventh most important source of clients in the sample as a whole (Michelson 2003:195). Whereas 88 percent of the respondents in the DLB Law Firm reported finding “some” or “most” of their clients through a telephone hotline, only 9 percent of the remaining 433 lawyers in the sample reported this level of dependence on telephone hotlines.²

In 1994, after the workload exceeded what this firm could handle alone, the Huiyuan Law Firm helped absorb the spillover. Although it is impossible to reconstruct an exact number, we can be sure there were at least a few dozen lawyers in these two law firms who shared the Lawyer Bao *nom de plume* between 1989 and 1998. In less than five and a half

2. This difference is highly statistically significant, $\chi^2 = 93.1$ (d.f. = 1), $p < .001$. After changing its name to “Baocheng” in 1995, this law firm changed its name again in 1999 to “Baoding.” Name changes notwithstanding, little had changed by the summer of 2000 when I conducted the survey: Baoding was still writing DLB columns and the work of its lawyers was still organized around its hotline consultation service.

