2 Research Methods and a Descriptive Overview of Chinese Lawyers

This dissertation is a study of urban lawyers. As in most of the world, the term "urban lawyer" is redundant in China. Like their counterparts elsewhere, Chinese lawyers are highly concentrated in cities. The United States is the global exception, with its lawyers distributed in significant numbers across rural settings (Abel 1985: 41–2). Of Beijing's 11.1 million permanently registered population in 2000, 57 percent were registered in the seven core urban Xicheng, Dongcheng, Chongwen, Xuanwu, Chaoyang, Haidian, and Fengtai. That is, 57 percent of the greater Beijing metropolitan area is urban. However, these seven districts account for 92 percent of Beijing's law firms and 96 percent of its lawyers (see Figure 2.1). Beijing's Miyun County, with a population of over 400,000, has only 14 lawyers in 2 law firms. The population of Changping County is also over 400,000, but has only 8 lawyers in 2 law firms. Given that Beijing's rural areas are among the most developed in China, we can only imagine the urban concentration of lawyers to be even more extreme in the more remote parts of rural China. It is for this reason that I surveyed lawyers in cities only.1

Survey Data

There are more lawyers in Beijing than in any other city in China, even more than in Shanghai. Beijing's population, level of development, and political character calls into

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1 Here and throughout this chapter I could also present maps showing the distribution of law firms. However, given that the number of lawyers and the number of law firms are almost perfectly correlated, doing so would be to present redundant information. At the county level, lawyer and firm populations are correlated at $r=.998$; at the level of the postal code, they are correlated at $r=.963$. In my Beijing sample, lawyer and firm populations are correlated at $r=.980$ at the county level and $r=.870$ at the postal code level.
question the national representativeness of its lawyers. Yet insofar as they represent the vanguard of the profession, arguably the future of legal practice elsewhere in China, it is essential to study lawyers in a major metropolis like Beijing. It is also essential to balance the picture with information from lawyers in smaller, less developed cities.

Figure 2.1. Geographical Distribution of Lawyer Population, Beijing, Metropolitan Area, 2000

NOTE: N=4,759 lawyers. The center region shaded in black (in the center of Haidian, Chaoyang, and Fengtai) includes four urban districts: Xicheng, Dongcheng, Chongwen, and Xuanwu.

I analyze data from two large-scale surveys of lawyers I carried out in the summer of 2000 in Beijing (n=462) and 24 small and mid-sized cities in 16 provinces outside Beijing (n=518).² The multi-city sample includes 22 prefecture-level cities and two

² The original multi-city sample size was n=529. Upon examining firm names, however, I discovered 11 cases that do not belong to law firms: 8 cases in 4 rice-roots law offices (jìlū shìwùsuō), 3 cases in 1 legal
county-level cities with 1990 urban populations ranging from 120,000 to 1 million. In Beijing I collected data from lawyers in 131 identifiable firms, representing 38 percent of all firms in 2000. The proportion of all firms accounted for by the 185 identifiable firms in my multi-city sample is harder to estimate given the absence of a comprehensive national law firm directory. However, in the 10 cities with local law firm directories available in either 2000 or 2001, I surveyed an average of 34 percent of all firms. The names and locations of the 25 survey sites are presented in Figure 2.2.

In the Beijing sample, of the 131 identifiable firms sampled, 123 appear on the official law firm roster published in 2000 by the BBJ and an additional two appeared on the BBJ’s 2001 roster. Of the 123 matches with the 2000 roster, there is enough information from respondents in 116 to compare firm sizes. The firm sizes on the rosters and those estimated from my survey data are correlated at \( r = .790 \) (\( p < .001 \)). In the multi-city sample, in the 10 cities with local law firm directories available in either 2000 or 2001, there are 46 matches (out of a total of 191 firms published on the rosters). The firm sizes on the rosters and those estimated from my survey data are correlated at \( r = .824 \) (\( p < .001 \)).

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3 How closely correlated are my data on year of law firm establishment with the official data? For this I have to limit the scope of analysis to firms that appear after 1995 (in case a firm that is on the 1995 roster was registered in earlier years). Of the 131 identifiable firms in my Beijing sample, 63 first appear on rosters after 1995. But of these 63 firms, the year the firm was established is missing in my survey data for 5. Of the remaining 58 firms, only for 32 (or 55 percent) is my information the same as what we would gather from the official roster data (\( r = .530 \), \( p < .001 \)). Of the 26 discrepancies, 16 are off by only 1 year and 4 are off by 2 years.
The design of the questionnaire was heavily influenced by the Chicago Lawyers Project at the American Bar Foundation (Heinz and Laumann 1994), but modified substantially according to the vastly different character of the Chinese bar. I modified the questionnaire in collaboration with legal scholars at the Chinese Academy of Social Sciences, the Tsinghua University School of Law, and the Peking University School of Law. Various iterations of the questionnaire were pretested on over a dozen lawyers in Beijing before the survey was formally launched in the summer of 2000.

In Beijing all questionnaires were distributed and collected by 33 local student research assistants, all female. The students were concentrated at the Beijing University
of Chemical Technology, Beijing Normal University, the University of International Business and Economics, and the Beijing Institute of Clothing Technology. Using a 1999 roster of law firms published in Zhongguo Lüshi Bao (Chinese Lawyer News), I divided all registered law firms and assigned them randomly to the student research assistants. Thus, the unit of analysis in this study is employees of registered law firms who practice law under the name lawyer. This includes a small number of people working as lawyers but without formal lawyer licenses: lawyer assistants fulfilling the statutory one-year internship period before taking the bar exam. This study does not include the so-called rice-roots legal workers (falü gongzuozhe), enterprise legal advisors (qiye falü guwen), corporate in-house counsel (gongsì neibu falü guwen), judges, procurators, legal advisors in government, law school faculty not employed by law firms, employees of representative offices of foreign law firm in China, and foreign lawyers in China. My survey also excluded judges and prosecutors, who, at the time of my survey, were trained and recruited through separate channels. Since my survey was completed, the education and certification of lawyers, judges, and prosecutors have converged significantly, but judges and prosecutors continue to operate in a separate world from that of lawyers. As we will see throughout this dissertation, the social, political, and economic distance between judges and prosecutors on the one hand and lawyers on the other is not only vast, but is characterized by antagonism, professional jealousy, and mutual hostility.

The research assistant's task was twofold in Beijing: First, she entered the law firm, introduced herself and the survey, showed a letter of introduction with official seals

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4 This newspaper was eliminated and replaced by the Baixing Xin Bao (News for the Common People) in 1999 or 2000, and all subsequent lawyer rosters have been published by the Zhongguo Lüshi magazine (Chinese Lawyer). The Baixing Xin Bao was later replaced by the Falü Fuwu Shibao (Legal Service Times). All incarnations of the defunct Zhongguo Lüshi Bao have been published by the Fazhi Ribao (Legal Daily).

5 I borrow this term from Alford (2002).
of approval from the Public Law Research Center at the Chinese Academy Social Science's Institute of Law, the Tsinghua University School of Law, and the All-China Lawyers Association's (ACLA) Chinese Lawyer magazine (Zhongguo Lüshi Zazhi She), and asked lawyers to fill out the questionnaire forms. It was difficult, demoralizing work, and several assistants quit shortly after the survey was launched (even after I doubled their pay). The assistants who encountered resistance typically did so at the front entrance—from either the building security guard or the law firm receptionist. If the assistant made it through these two filters and could actually make contact with lawyers inside the firm, she usually received enthusiastic cooperation and support. In total the assistants approached 234 firms, 42 percent of which failed. Of these failures, 54 percent were due to refusals, including being turned away by receptionists and firm directors' not approving of lawyers' participation. The remaining refusals were due to bad addresses, law firms' moving, and empty offices (on each of multiple attempts). This means the firm-level refusal rate was 23 percent. Smaller firms were significantly more likely than larger firms to fail, mostly because they were more likely to be empty, to have moved, or to have closed (also see Chapter 8). The individual-level refusal rate is impossible to estimate.

Second, she gathered information about the firm and recorded it on a separate form for firm-level data. The firm form includes information on ownership (state-owned, partnership, cooperative, or other), year firm was established, whether or not the firm has branch offices, and the locations of any branch offices.

The multi-city questionnaires were distributed and collected by 26 research assistants hired in Beijing. These assistants originated from the cities they surveyed and were going home for the summer holidays anyway. With the exception of three, all assistants were students at Beijing Normal University. (One exception is a student at the Beijing Institute of Clothing Technology who also participated in the Beijing survey.)
Another exception is a student in Guangzhou. The final exception is a non-student. Of the 26 student assistants, 19 were female. With the exception of Hohhot and Nanning, each of which had two assistants, all cities had one assistant each. There is no way to estimate the response rate at either the firm or individual level in the multi-level survey.

The multi-city research assistants had two additional tasks beyond those performed by the Beijing assistants: First, the multi-city assistants gathered information on the number of lawyers in the city. As many lawyer respondents as possible were asked to estimate the total lawyer population of the city. The mean of these estimates serves as the city-level lawyer population. Only in one city (Baoding) did the assistant fail to solicit any population estimates. I imputed missing lawyer population using methods described in Appendix G. Second, the multi-city assistants wrote reports describing the physical location, size, and layout of each law firm.

Questionnaires were self-administered. Based on the detail of open-ended responses and the care lawyers took to read questions carefully, it is clear that the vast majority of respondents completed the questionnaires with great diligence. I repeated several items on the questionnaire but reversed the direction of the wording to catch "lazy respondents" who check a single response category across all items in a section. Only five respondents in the Beijing sample and one respondent in the multi-city sample indiscriminately checked a single response category without regard to variation in the direction of wording. Using OMR (optical marks recognition) technology, the forms were self-coding. I scanned the forms and ran the image files through the OMR software (Remark Office) myself. Finally, I hired an assistant to perform data entry on the open-ended items manually.
Assessing Representativeness

Although these are convenience samples (i.e., neither the law firms nor the lawyers within them were selected randomly), they appear reasonably representative. In both the Beijing and multi-city samples, firm ownership and size closely correspond to official information (Figure 2.3). In 1999, 19 percent of Beijing's law firms were state-owned and 81 percent were private; in 2000, 17 percent of Beijing's law firms were state-owned (see Table M.2). In my sample, of the 127 firms with ownership information available, 15 and 80 percent were state-owned and partnerships respectively. In 2000, across all of China, 42 and 45 percent of law firms were state-owned and partnerships respectively (see Table M.4). In my multi-city sample, of the 169 firms with ownership information available, 36 and 59 percent were state-owned and partnerships respectively. The discrepancy between my sample and the official distribution is largely accounted for by the underrepresentation of other forms of ownership in my sample—only 6 percent of the firms in my sample are cooperative or other, while the official figure for China as a whole was 13 percent in 2000 (Ma 2001).

Throughout this study I use the term "state-owned" for the sake of convenience to refer to law firms established and funded by public-sector units. The consistent use of this term is easier than the use of multiple terms used in different time periods in the development of lawyers in China. In recent years, the term "state-owned" (guoyou) has lost favor to "state-established firm" (guobansuo) and "state-funded firm" (guozisuo).
Figure 2.3. Law Firm Ownership, 2000

SOURCE: For full tables and sources for population data, see Appendix M.
NOTE: Beijing sample n=131 firms; multi-city sample n=169 firms.
"Private" firms include partnerships, cooperative, group, shareholding, and individual (see Chapter 3).

At the individual level, gender, age, education, remuneration method, Party membership, and car ownership also closely match official information (Figures 2.4–2.9). Not surprisingly, the ratio of Chinese Communist Party (CCP) members to non-members is much higher in Beijing than outside Beijing. Nationally, CCP members represented 33 percent of all full-time lawyers in 1992 (Zhang 1996). Also not surprisingly, the proportion of CCP members is much higher among lawyers than in the general population. According to the 1998 China Household and Income Project, 23 percent of the urban population were CCP members (Dickson and Rublee 2000). Others have estimated 15 percent (Cao and Nee 2002).
Figure 2.4. Lawyer Gender, 2000

SOURCE: Population data for Beijing from personal interview with the director of the Lawyer Administration Section of the BBJ. Population data for China as a whole from personal correspondence with Gongren Ribao (Worker's Daily) journalist, September 2001, on file with author. NOTE: Beijing sample n=458; multi-city sample n=506; lawyer population in Beijing N=5,498; lawyer population in China as a whole is estimated from information on full-time lawyers only (11,082 full-time female lawyers out of a total of 63,152 in 2000).
Figure 2.5. Lawyer Age Distribution, 2000 and 2002

All Lawyers in Beijing

Beijing Sample

Multi-City Sample

Legend

SOURCE: population data from ACLA (2002e)
NOTE: Beijing sample n=451; multi-city sample n=505; all lawyers in Beijing N=5,834. Data for all lawyers in Beijing are from 2002.
Figure 2.6. Lawyer Remuneration Methods, 2000 and 2002

SOURCE: population data from ACLA (2002e)
NOTE: Beijing sample n=439; multi-city sample n=499; all lawyers in Beijing N=5,834. Population data for lawyers in Beijing are from 2002.
Figure 2.7. Lawyer Educational Degrees, 2000

SOURCE: population data from personal interview with the director of the Lawyer Administration Section of the BBJ, September 2001, on file with author
NOTE: Beijing sample n=403; multi-city sample n=443; all lawyers in Beijing N=5,498. Data for all lawyers in Beijing are from 2001. National data on lawyers' education is too incomplete and questionable to report here. Given that my survey data contain information on multiple degrees per lawyer, certain coding decisions had to be to construct the above graphs. In cases where the year of graduation degree is known, the most recent degree was included in the graphs. Where year of graduation is not known, higher degrees took priority over lower degrees, and law degrees too priority over non-law degrees. Finally, foreign language degrees took priority over any other kind of degree. It is unclear why the official Beijing data contain so many foreign language degrees. Indeed, it is unclear why foreign language degrees constitute a separate category. This is clearly part of an organized effort to portray the Beijing bar as equipped to handle international legal matters in preparation for entry into the World Trade Organization. There has been a concerted effort to encourage foreign language study. For example, the 2002 survey of lawyers boasted about the universality of Beijing lawyers' having taken one or two foreign language classes (ACLA 2002e).
Figure 2.8. Lawyer Communist Party Membership, 1995, 2000, and 2002


Figure 2.9. Lawyer Car Ownership, 2000 and 2002

SOURCE: For all Beijing households, Xie (2002), and are from 2001. Data on all lawyers in Beijing are from 2002, ACLA (2002e). NOTE: Beijing sample n=430; multi-city sample n=492; all lawyers in Beijing N=5,834.
Lawyer Categories

The only significant source of bias is with respect to lawyer position: part-time lawyers are underrepresented in my samples because they are rarely present at their law firms. Since part-time lawyers tend to be older than full-time lawyers, this bias also skews the age distribution. Insofar as we are interested in full-time practitioners, the future of legal practice in China, I am not particularly worried about this form of bias. The part-time lawyer population has been shrinking dramatically over time: between 1988 and 2000, part-time lawyers dropped from 57 percent to 25 percent of all lawyers in Beijing (see Table M.1); for China as a whole, part-time lawyers dropped from 32 percent to 19 percent of all lawyers (see Table M.3). In my Beijing and multi-city samples they account for 9 percent and 8 percent respectively (Figure 2.10).

Many retired officials from the gongjianfa (the police, the procuracy, and the courts) entered the bar under the title "specially-invited lawyer" (te yao lüshi) (Wang and Gao 2000: 6; em28). This path of entry did not require formal educational certification or sitting for the bar examination. Since I conducted my survey, this position has been abolished. In accordance with a 1999 Ministry of Justice (MOJ) directive entitled Ministry of Justice Notice Regarding the Problem of Registering Specially-Invited Lawyers, starting in 2001, specially-invited lawyers must either pass the bar examination or abandon practice (em08). I was able to capture specially-invited lawyers in my survey before they disappeared. As we will see (especially in Chapter 10), this lawyer category reveals with particular clarity the importance of social and political capital.

Part-time lawyers (jianzhi lüshi) are formally based at other work organizations and only moonlight as lawyers. After 1989, only law school faculty members could work as part-time lawyers (em28). The formal institutional affiliation of a part-time lawyer is her law school, not her law firm.
Finally, there are "hired lawyers" (zhao pin lüshi). The foregoing three categories of lawyers—specially-appointed, part-time, and hired—do not occupy slots in the state personnel allocation system (bianzhi) and their salaries are not paid by the relevant bureaus of justice. At the time I conducted my research, state-owned law firms were still in existence in Beijing. At this time, full-time lawyers (zhuan zhi lüshi) were differentiated according to the source of their salaries—from state coffers, from bootstrapping, or from one's firm. Indeed, as we will see in greater detail in Chapter 7, the predominant classification of lawyers is between salaried and commission-based lawyers.

**Figure 2.10. Lawyer Job Positions, 2000 and 2002**

- **Beijing Sample**
  - Full-time: 88%
  - Part-time: 6%
  - Specially-appointed: 5%

- **Multi-City Sample**
  - Full-time: 91%
  - Part-time: 7%
  - Specially-appointed: 2%

- **All Lawyers in Beijing**
  - Full-time: 80%
  - Part-time: 19%
  - Specially-appointed: 1%

- **All Lawyers in China**
  - Full-time: 74%
  - Part-time: 19%
  - Specially-appointed: 7%

**SOURCE:** For full tables and sources for population data, see Appendix M. Beijing population data are for 2002, while the remaining figures are for 2000. Some pies do not sum to 100 percent owing to rounding error.

**NOTE:** Beijing sample n=401; multi-city sample n=496; all lawyers in Beijing N=6,305; all lawyers in China N=84,982.
**Geographical Distribution of Lawyers in Beijing**

The purpose of this short section is simply to demonstrate that my Beijing sample is reasonably representative geographically, that my survey data contain no systematic geographical bias. As we saw in Figure 2.1, 46 percent of the true population of lawyers work in one of the four core urban districts of Beijing—Dongcheng, Xicheng, Xuanwu, or Chongwen. In Figure 2.11, we can see that 56 percent of my Beijing sample work in one of these four districts.

**Figure 2.11. Geographical Distribution of Lawyers in Beijing Sample, Metropolitan Area**

![Map of Beijing showing the geographical distribution of lawyers](image)

NOTE: n=451 lawyers. The center region shaded in black (in the center of Haidian, Chaoyang, and Fengtai) includes four urban districts: Xicheng, Dongcheng, Chongwen, and Xuanwu.

Of the 352 law firms without missing postal codes (i.e., the postal codes of 13 firms on the official roster were missing and could not be ascertained by other means), at least 91 percent are located in the city core, the detail of Beijing's urban districts
presented in Figure 2.12. Of the 4,548 lawyers in these 352 law firms, at least 93 percent are located in the urban area demarcated in Figure 2.12. And of those located outside the scope of the map detail, the clear majority (22 out of 32 law firms and 198 out of 324 lawyers) are located in parts of Chaoyang and Haidian off the map.

Within the urban center of Beijing, lawyers are distributed widely, but with a clear tendency toward the center and, in particular, toward the east side of the city center (see Figure 2.13). The Beijing sample shows the same tendency and same general concentration (see Figure 2.14). The clustering of firms toward the east side of the city center reflects the concentration of commercial activity—including international commerce—in this section of the city. Indeed, foreign law firms in Beijing are ghettoized to the extreme in this area. In 2002 there were 45 representative offices of foreign law firms located in Beijing, 16 of which were American, including Baker & McKenzie, Skadden, Arps, Slate, Meagher & Flom, and Sullivan and Cromwell. Every one of these foreign law offices is situated on the east side of the city, and 71 percent are concentrated in two postal codes (see Figure 2.15). These offices hire many local lawyers, who by law are required to relinquish their lawyer licenses. Most of these local hires are highly qualified with advanced degrees from elite law schools, many with international experience. However, they do not appear on official registries and are not counted as "lawyers."
NOTE: The shaded area denotes the area that includes the Chaoyang Central Business District in which the major international commercial office towers are concentrated: the China World Trade Center, the CITIC Building, the Jing Guang Center, the Scitech Tower, the Kerry Center, the Huapu International Plaza, and the Hanwei Plaza, among others.
Figure 2.13. Geographical Distribution of Lawyer Population in Beijing, Urban Districts, 2000

NOTE: N=4,089 lawyers out of 4,797 lawyers registered in 2000 and on the officially published roster.

Figure 2.14. Geographical Distribution of Lawyers in Beijing Sample, Urban Districts

NOTE: n=404 lawyers. 40 lawyers in the sample with known postal codes cannot be placed on the map.
**Methodological Strategies: The Surveys**

A substantial portion of this study is devoted to analyzing the nature and extent of professional difficulties and the means by which lawyers alleviate these difficulties. The starting point in this exercise is measuring lawyers' perceptions of the degree of cooperation and obstruction in their everyday work. A problem that has plagued survey research in China is political desirability bias—the reluctance of informants to provide "politically incorrect" information, either about their own behavior and opinions or about the government. Political desirability bias inflates respondents' reporting of politically desirable behavior, both individual and institutional, and also inflates missing values as respondents avoid sensitive questions rather than provide biased information (Rosen 1987; Manion 1994; Tang 2003). I adopted three measures to minimize the extent of political desirability bias: First, I trained the research assistants to emphasize to informants that the survey was being conducted independently of any government organ, was for scholarly research purposes only, and did not solicit identifying information.
Second, I phrased questions about the status of lawyers, government obstruction, and 
guanxi not in terms of the personal behavior or experiences of the respondent but rather 
in terms of her evaluation of the general prevalence of various problems in the bar as a 
whole or among the lawyers she knows about. The pretense of distance from the 
politically undesirable behavior being measured increased the respondent's level of 
comfort answering politically sensitive questions. Third, I repeated questions but with 
question wording in the opposite direction. If a respondent was reluctant to report high 
levels of a negative situation, she had another opportunity to report low levels of a 
positive situation.

Another strategy I adopted was to solicit information on career and educational 
histories with open-ended items (see Appendices N and O). In contrast to the standard 
method of using closed-ended categories for jobs (usually with separate sets of categories 
for job title, administrative rank, industry, and work unit ownership), I decided instead to 
privilege the richness of detail over consistency by asking respondents to provide their 
own descriptions in their own words. Although classifying and coding the open-ended 
responses was extremely labor-intensive and time-consuming, the payoff was 
tremendous. Complete details are reported in Chapter 6.

**Qualitative Interview and Observational Data**

In addition to the survey data, I also marshal evidence from in-depth interviews I 
personally conducted with 32 lawyers, legal scholars, government officials, and 
journalists in Beijing in 1996 and 1999–2001. A fourth and final source of data is an 
ethnographic project at a single Beijing law firm I organized and oversaw to observe and 
record lawyer-client interactions. This project was heavily influenced by the 
methodology of Sarat and Felstiner's (1995) research on American divorce lawyers.
Between March and August, 2001, two student research assistants, both undergraduate students (one male, one female) at Renmin University's Department of Sociology, observed 48 legal consultation sessions representing 45 cases and 27 of the firm's lawyers. As part of this project, the student research assistants conducted separate qualitative interviews with 35 of this firm's lawyers. Approximately half of the consultation sessions were tape recorded. Notes taken by hand during the remaining non-tape-recorded sessions and the interviews were supplemented by memory to reconstruct each session in its entirety. Throughout this dissertation, a citation with the prefix "lfi" refers to a "law firm interview" conducted by one of the student research assistants; the prefix "lfc" refers to a "law firm consultation session"; the prefix "em" refers to interviews I conducted personally. See Appendix A for details of all interviews and lawyer-client consultation sessions.

With about 50 lawyers, the law firm we studied is significantly larger than average in Beijing (5,495 lawyers ÷ 345 firms = 16 in the year 2000). Despite its scale, the legal efforts of these lawyers are largely devoted to personal clients. A large proportion of this firm's business is generated by the free telephone hotline service and inexpensive face-to-face consultations it offers to the public. The prospective clients observed in this study are typically walk-ins off the street; some made appointments in advance by telephone. Like 95 percent of law firms in Beijing in 2001 (see Table M.2), this is a partnership.7

6 Based on data from my survey of 462 lawyers in Beijing in 2000 (of which 395 provided the relevant information), I estimate that 60.1 percent of total billings derive from corporate clients (companies and enterprises) while only 22.5 percent derive from personal clients, with the remaining 17.3 deriving from public organizations (shiye danwei) and government offices (see Table 5.2). In the law firm we observed, on the other hand, I estimate that billings from personal clients are double the city-wide amount, at 43.9 percent, with corporate clients and public and government organizations respectively accounting for 47.2 percent and 8.9 percent of lawyer billings (based on 17 questionnaire interviews, of which 13 contained the relevant information).

7 It privatized in 1998, changing its name and establishing itself as a partnership.
The 27 lawyers whose consultation sessions I analyze are diverse in terms of their backgrounds. Some have worked only as lawyers while some held careers prior to switching to law. Some have worked as lawyers in different law firms. Some are from Beijing, some are from distant provinces. Some are young, some are old. Some are fully-licensed lawyers, some are interning lawyers, and one is a partner. Only 4 are female. The average age is about 33; the oldest lawyer is in his mid-forties and the youngest are in their early twenties. All names of individuals that appear in this study have been altered (see Tables A.1 and A.2).

We do not have a consistent set of information about each consultation session because at the time we initiated this observational research we had no clear research problem; we did not know what we were looking for. This weakness is also its strength. The themes in the data emerged spontaneously and naturally; they were not pursued by either of the research assistants. The researchers appeared at the site unannounced on random days. The drawback of this design is that the researchers were largely unable to conduct follow-up observations or track the development of cases over time. The good news, however, is that the lawyers were unable to prepare cases or coach the individuals who sought their counsel, and that cases were assigned randomly. We have more information about the lawyers than the individuals who sought their counsel. What we know about the prospective clients was gleaned largely from what they said during the lawyer-client conference session. But we have additional information about the lawyers through separate interviews. We have very few interviews with prospective clients outside the scope of the legal consultation session.

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8 This is somewhat more skewed than what we know about the true gender and age distributions of the Beijing bar. The mean age of the 6,300 lawyers in Beijing at the end of 2001 was about 40. In the middle of 2001, 29 percent of the 5,498 lawyers in Beijing were female (see Figures 2.4 and 2.5).
In this dissertation I avoid the term "client." I am analyzing instances in which "potential" or "prospective" clients consult with lawyers. Since there is no standard English term for prospective client, I instead use the Chinese term dangshiren, which literally means "involved party."  

Of the 45 cases that make up the 48 consultations observed and recorded, 16 are housing disputes, of which many are disputes over housing inheritance; 6 are assault cases; 4 are economic contract disputes; 3 are labor disputes; and the remaining 16 are a motley assortment of matters that include neighbor disputes, debt collection problems, murder, and rape. The financial stakes are quite high in many of the cases I analyze. The stakes in housing disputes are typically between 150,000 and 500,000 yuan. In assault and personal injury disputes, hospital and other medical costs at issue can total anywhere from several thousand to several hundred thousand yuan. Contract disputes between firms or matters of debt obligation can similarly range from several thousand to over one hundred thousand yuan. To put this in perspective, in 2000 the average annual industrial wage in Beijing was 15,276 yuan; according to the Beijing Statistical Bureau's 1,000 household sample, the average annual cash income was 12,560 yuan in the same year (BSB 2001: Tables 3–10 and 19–3).

**Methodological Strategies: The Qualitative Research**

Sensitive to the bias introduced by my big nose, I developed the foregoing research strategy so data could be collected without my on-site presence. I organized these independent interviews to avoid the kind of foreigner-induced bias that may have influenced Guthrie's (1998, 1999) findings from his study of state-owned enterprise

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9 The dictionary definition of dangshiren is: "(1) refers to any side participating in litigation, such as the plaintiff or defendant in civil litigation, or the prosecutor or defendant in criminal litigation; (2) a person with a direct connection to a thing" (Xiandai Hanyu Cidian 1996: 250).
managers in Shanghai. It is painfully obvious to any "foreigner" who has done field work in China that Chinese interview subjects, like interview subjects anywhere, are often sensitive to the image they are presenting to outsiders. That the statements made by Guthrie's interview subjects are often self-consciously juxtaposed to foreign practices only drives this point home. After insisting that the prevalence of guanxi practices is in decline, one of Guthrie's informants stresses this point with clear reference to Guthrie's American origins: "I think the United States must have some problems with people using connections too..." (Guthrie 1998: 271). On the next page we read an informant couch his entire argument about the rise of formal law squelching guanxi in terms of the ubiquitous catch phrase, "getting on track with the international community" (p.272). It is precisely those with more exposure to foreign firms and practices that should be expected to be more sensitive and attuned they are to the "correct" model of organizational behavior, more conscious of the "track of the international community," and more eager to demonstrate convergence to this track. In reading Guthrie's work, however, it is extremely difficult to disentangle the simultaneous and contravening forms of bias introduced by eliciting information on actual behavior, perceived actual behavior, and self-conscious distortions of actual behavior. In the process of conducting my field research, it became manifestly obvious that the lawyers I interviewed personally were more reserved and self-conscious than those interviewed by my research assistants.

Although this project was heavily influenced by Sarat and Felstiner's (1995) methods, I moved beyond them in two important ways. First, I captured the struggle over meaning that occurs before the prospective client becomes a client. By studying the process that occurs after clients have retained the services of lawyers, Sarat and Felstiner's data are left-censored; a significant part of the process they write about occurs before the prospective client becomes client. In the preliminary consultations not captured in the Sarat and Felstiner study, the lawyer attempts to elicit the information
necessary to decide whether or not she wants the case. The process of rejecting clients reflects an important part of the exercise of power through meaning. Second, in my research I am better equipped to assess the extent to which discourse in the law firm bears any relation to actual behavior. Sarat and Felstiner point to lawyers' tendency to talk about connections to judges; but they have no way to assess whether such connections actually matter outside the scope of the lawyer-client conference.