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OBSTACLES TO SELF-ACTUALIZATION IN
CHINESE LEGAL PRACTICE

Melissa S. Hung*

I. INTRODUCTION

China’s expanding economy has attracted businesses eager to capitalize on China’s development.1 The Chinese legal profession, however, is not maturing at a similar pace. China’s lawyers and judiciary are not currently equipped to effectively manage the disputes that will inevitably result from this economic growth.2 Although the Chinese legal profession and court system have made considerable progress since reinstitution twenty years ago,3 the present state of the system limits further meaningful growth of China’s legal practice.4

* Ethics Editor, Santa Clara Law Review, Volume 48; J.D. Candidate, Santa Clara University School of Law; B.A., Music, University of California, Berkeley. I wish to thank my family for their constant, unconditional support. I also wish to thank Professor Anna M. Han and the editors at the Santa Clara Law Review for their thoughtful contributions.


4. See Lu, supra note 1, at 127.
Self-actualization, a concept developed by psychologist Abraham Maslow, is achieved only by satisfying one's highest emotional needs. In the pyramid often used to represent Maslow's hierarchy of needs, self-actualization occupies the apex, reached only after lower needs are substantially satisfied. Given existing conditions, self-actualization is not possible in Chinese legal practice because lower needs of job security, and even physical safety, are not yet fulfilled. China's present political climate does not permit lawyers and judges to fully represent their clients or the law.

The key element to promoting optimal professional growth of lawyers and judges is structural reform. While absolute independence of the bar and the judiciary are not feasible given China's political circumstances, restructuring the bar and judiciary will improve both national and international confidence in the legal system's reliability. In turn, this trust will reinforce and encourage continued

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5. American psychologist and philosopher Abraham Maslow (1908-70) proposed the integration of self as psychotherapy's chief objective. According to Maslow, such integration is attained when a hierarchy of needs is fulfilled. 7 THE NEW ENCYCLOPEDIA BRITANNICA 911 (15th ed. 1998).

6. From lowest to highest in the hierarchy, Maslow's need levels are physiological, safety, love, esteem, and self-actualization. Physiological requirements include the basic need to breathe, eat, and sleep. Safety desires encompass physical safety, as well as security in family, health, and employment. The love level addresses friendship and intimacy wants, while the esteem stage focuses on developing self-confidence and gaining the respect of others. See id.


10. Id.
In evaluating the current limiting factors of China's legal practice, Part II of this comment briefly describes the history of China's legal profession, including the vocation's virtual obliteration during the Cultural Revolution, and the eventual reinstitution of the occupation and its educational systems. A rough overview of the present set of laws governing lawyers and judges follows. Next, this comment outlines current education and training requirements for both groups. Part II concludes with a short explanation of the profession's organizational structures.

Part III highlights functional problems with China's current legal practices, including criticisms of unqualified and corrupt professionals, and a general skepticism regarding the integrity of the legal process. Part IV discusses factors contributing to these problems, most notably the court system's financial dependence on the government. Part V proposes structural reform as the most effective and crucial element in resolving the Chinese legal practice's issues. Without a greater degree of independence, China's legal system and its professionals can neither fully practice their trade, nor establish credibility as genuine advocates or objective adjudicators.

12. China's Cultural Revolution (1966-76) was a political campaign led by Communist Party Chairman Mao Zedong to cleanse China of bourgeois influence. Traditional Chinese customs, culture, and values were shunned. Red Guards, young adults devoted to Mao's teachings, attacked intellectuals and destroyed Chinese antiquities. Education and most economic activity ceased during this time. Millions were forced into manual labor, others executed. THE NEW ENCYCLOPEDIA BRITANNICA, supra note 5, at 783-84.
13. See infra Part II.A.
15. See infra Part II.B.2.
16. See infra Part II.C.
17. See infra Part II.D.
18. See infra Part III.
19. See infra Part IV.
20. See infra Part V.
II. BACKGROUND

A. History of China’s Legal Profession

Traditional Chinese culture highly valued law and legal education, and programs for the legal education of local officials existed in China as early as three thousand years ago. Law was considered a family trade, often taught by prominent scholars. Historical documents describe generations of recognized law-teaching families, and emperors occasionally adopted annotations by such families as a source of law. At that time, qualifying exams for governmental officials often included material on codes and legal theories. Untrained assistants, however, usually rendered case decisions while selectively applying favorable law. Because secretaries did not carefully apply legal principles in their recommendations, judicial activities did not advance independent Chinese legal expertise. Judges were not formerly lawyers. They often referred to moral principles, community traditions, historical works, and Confucianism as sources of law, frequently deciding cases without regard to precedent or legal codes.

Prior to the twentieth century, the government, private entities, and individuals disseminated public knowledge of law. Increased contact with the West resulted in greater Western discontent with the legal system and pressure for reform. In 1906, the Qing Dynasty government established

22. Id. at 707-08.
23. Id. at 708.
24. Id.
25. See He, supra note 3, at 140.
26. See id.
27. Id. at 141; Wang Zhenmin, Legal Education in Contemporary China, 36 INT’L LAW. 1203, 1210 (2002).
28. Confucianism is a political philosophy derived from the ideas of Confucius (550-479 BC), the first philosopher and teacher known by name in Chinese history. The principles stress a leader’s responsibility to rule in the interests of the general public and obligation to serve as a moral role model. CHINA: A CULTURAL AND HISTORICAL DICTIONARY 62-63 (Michael Dillon ed., Curzon Press 1998).
29. See He, supra note 3, at 141.
30. Zeng, supra note 21, at 708.
31. See id. (identifying “heavy western influence” as the impetus for China’s
the first formal legal education institution in modern China, Jingshi Law School.\textsuperscript{32} The need for lawyers increased as more foreigners flocked to China.\textsuperscript{33} Disagreements between Chinese and foreigners grew accordingly.\textsuperscript{34} Each province subsequently established its own law school,\textsuperscript{35} eventually producing an extensive network of lawyers prior to the birth of the People's Republic of China in 1949.\textsuperscript{36}

The establishment of formal legal institutions continued following the Republic's founding,\textsuperscript{37} with Remmin University of China Department of Law as the first.\textsuperscript{38} A socialist legal system based on the Soviet Union was launched, and legal education theories changed accordingly.\textsuperscript{39} Other universities followed suit in instituting departments of law until the Cultural Revolution decimated China's educational systems.\textsuperscript{40} During this period, China's courts primarily focused on resolving family law problems and penalizing adversaries.\textsuperscript{41}

Following the conclusion of the Cultural Revolution in 1976, the central Chinese government revived the legal system as a necessary complement to a reformed economy; businesses needed lawyers for legal advice and dispute resolution.\textsuperscript{42} Law advisory offices were revived in 1979 and recorded as state-owned organizations with the Ministry of Justice, the governmental department responsible for national judicial administration.\textsuperscript{43} Additionally, almost every general university established a law school or department of

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\textsuperscript{32} Zeng, supra note 21, at 708.
\textsuperscript{33} He, supra note 3, at 144.
\textsuperscript{34} Id.
\textsuperscript{35} See Zeng, supra note 21, at 708.
\textsuperscript{36} See Lu, supra note 1, at 284.
\textsuperscript{37} See generally Wang, supra note 27, at 1205 (describing the history of China's legal education).
\textsuperscript{38} Zeng, supra note 21, at 708.
\textsuperscript{39} See Wang, supra note 27, at 1205 (describing how former academics and legal personnel were obliged to study the new Soviet Union law from imported texts and accept training from legal practitioners from the Soviet Union).
\textsuperscript{40} See id. Cultural Revolution leader Mao Zedong championed the "rule of man, not rule of law." Keyuan Zou, Judicial Reform in China: Recent Developments and Future Prospects, 36 INT'L LAW. 1039, 1045 (2002).
\textsuperscript{41} Id. at 1042.
\textsuperscript{42} Lu, supra note 1, at 284-85.
\textsuperscript{43} Id. at 286-87.
law. Since the initial restoration of the legal system, the number of lawyers has increased enormously, with approximately 120,000 practicing lawyers as of the spring of 2003, compared with 5500 in 1981. To promote public awareness and the study of law, the government also founded Offices of Publicizing the Law. The All China Lawyers Association (ACLA), the national bar, was established in 1986, the same year as the first nationwide lawyers' qualifying examination.

B. Legislation Governing Lawyers and Judges


1. Overview of Lawyers’ Law

The National People's Congress, the highest legislative body in the People's Republic, promulgated the “Interim Regulations of the People's Republic of China on Lawyers” in 1980, effective in 1982. This precursor to the Lawyers' Law labeled lawyers as “state legal workers.” The first version of the Lawyers’ Law was passed in 1996, became effective in

44. Id. at 283.
45. Id. at 285-86.
46. Id.


48. Chinese legal professionals also include public procurators, who are responsible for prosecuting crimes on behalf of the State. See Public Procurators Law (promulgated by the Standing Comm. Nat'l People's Cong., effective July 1, 1995), art. 6 (P.R.C.). Because public procurators represent the State, their duties are aligned with governmental interests. Id. Many of the conflicts discussed in this work are thus inapplicable, and references to procurators are purposely omitted.

51. See Lawyers’ Law, supra note 49; Judges’ Law, supra note 50.
52. See, e.g., Lu, supra note 1, at 285.
53. Qizhi Luo, Autonomy, Qualification and Professionalism of the PRC Bar, 12 COLUM. J. ASIAN L. 1, 10 (1998).
1997, and repealed the interim regulations. Modifications and subsequent amendments addressed the changed needs of Chinese society, including reforms of China's open-door policy, economy, and culture. Most notably, the first Lawyers' Law designated lawyers as legal professionals in the service of society, rather than state workers. This difference in characterization signaled a new level of sovereignty for the profession. Justice Department officials have reported plans to revise the Lawyers' Law again in the near future, citing a need for standards in accord with the growth of a socialist market economy to overcome the current "bottleneck impeding the further development of lawyering."

The current Lawyers' Law contains eight sections: General Provisions; Conditions of Practice by Lawyers; Law Firms; Business, Rights and Obligations of Practicing Lawyers; Lawyers Associations; Legal Aid; Legal Liability; and Supplementary Provisions. Similar to other Chinese laws, the Lawyers' Law is not particularly detailed, proclaiming broad general statements, such as "lawful practice by lawyers shall be protected by law." As stated in Article 1, purposes of the legislation include "to standardize acts of lawyers, to safeguard the lawful rights and interests of parties, to ensure the correct implementation of law, and to enable lawyers to play a positive role in the development of the socialist legal system." Lawyers must be registered with a law firm, but solo practitioners have been permitted in recent years. There are three permissible types of Chinese

54. Lu, supra note 1, at 285.
55. Lu, supra note 1, at 285; see, e.g., Lo & Snape, supra note 47, at 443.
56. Lawyers' Law, supra note 49, art. 2.; Lu, supra note 1, at 285; see, e.g., Lo & Snape, supra note 47, at 443; Luo, supra note 53, at 20 (also observing, however, that the Ministry of Justice still supervises law firms and lawyers even though they are no longer considered state organizations and workers, possibly due to profit sharing incentives).
57. See Lu, supra note 1, at 285.
59. Lawyers' Law, supra note 49.
61. Lawyers' Law, supra note 49, art. 3.
62. Id. art. 1.
63. Lu, supra note 1, at 292.
64. Beijing Approves Individual-Run Law Firms, CHINA COURT, Oct. 24,
law firms: state-funded, cooperative, and partnership.65 First allowed in 1993, partnerships are the newest, but most popular variety.66

2. Overview of Judges’ Law

The first Judges’ Law became effective on July 1, 1995,67 and has been subsequently revised.68 Article 1 states that the law was enacted “to ensure that the People’s Courts independently exercise judicial authority according to law and that judges perform their functions and duties according to law, to enhance the quality of judges, and to realize the scientific administration of judges.”69 Separated into seventeen chapters, the Judges’ Law addresses such areas as functions and duties, obligations and rights, qualifications, appointment and removal, appraisal, training, and retirement.70 Similar to the Lawyers’ Law and other legislation, the language is general and imprecise. While judges may enjoy the right to “have the power and working conditions which are essential to the performance of functions and duties of judges,”71 there is no clear description of these specific powers and working conditions.72

China has announced plans to examine the enforcement of the Judges’ Law in several provinces and regions.73 These assessments are designed to promote justice by encouraging the integrity and competence of individual judges, thus preserving societal standards of fairness.74

C. Education and Training of Lawyers and Judges

In China’s haste to restore the legal profession, lawyers
were commonly licensed and judges appointed despite a lack of formal legal training, knowledge, and experience. Retired military servicemen comprised the majority of the first group of judges following the Cultural Revolution. The implementation of the Lawyers' and Judges' Laws has raised standards. There is, however, a need for even greater improvement in legal education, and the quality of the Chinese bar and judiciary.

1. Becoming a Lawyer in China

The Lawyers' Law outlines several paths to licensing. Candidates must be citizens of the People's Republic, support the Constitution, and possess good moral character and conduct. Previous dismissals from public employment or criminal convictions for intentional crimes render an applicant ineligible.

The judicial administration department (the Ministry of Justice), under the supervision of the State Council, determines the standards for the national bar exam. As of 2001, this examination is the same test taken by judiciary candidates, and is known as the national judicial exam. To sit for the examination, an applicant must have a minimum of three years of university level legal education, an undergraduate education in a different field, or have attained an equivalent professional level. Following exam passage, candidates intern at a law firm for a year. Upon completion, they receive lawyer licensing from the authorized provincial office of their desired practice location. Although regional

76. See Zou, supra note 40, at 1051.
77. See id. at 1051-52.
79. Lawyers' Law, supra note 49, art. 6.
80. Id. art. 8; Lu, supra note 1, at 290.
81. Lawyers' Law, supra note 49, art. 9; Lu, supra note 1, at 291.
82. Lawyers' Law, supra note 49, art. 6; Lu, supra note 1, at 290.
83. Wang, supra note 27, at 1212, n.35; Lu, supra note 1, at 290.
84. Lawyers' Law, supra note 49, art. 6.
85. Id. art. 8.
86. Id.; Lu, supra note 1, at 290.
authorities grant licenses, lawyers may practice anywhere in China except Hong Kong, Macau, and Taiwan.\(^\text{87}\)

Previously, with the approval of the judicial administration department, exam passage was not necessary for licensure for applicants holding a Master of Laws (LLM) or Doctor of Philosophy (Ph.D.) in law.\(^\text{88}\) To raise the standard of practice, a bachelor’s degree in any field, although not necessarily law, is now a prerequisite for the national judicial exam.\(^\text{89}\)

Chinese legal education presently features at least ten different types of law degree programs.\(^\text{90}\) The Bachelor of Laws program (LLB), China's typical legal degree,\(^\text{91}\) is considered a general, rather than professional, education.\(^\text{92}\) Although Chinese law schools previously offered majors for LLB candidates,\(^\text{93}\) this was discontinued in 1997 after the National Guidance Commission on Higher Legal Education decided students would benefit from more general backgrounds.\(^\text{94}\) Most LLB programs require fourteen core courses.\(^\text{95}\) Students with the equivalent of a bachelor’s degree in other fields may earn a Juris Master (JM) degree after two years of study.\(^\text{96}\) The JM degree was created to recruit non-law graduates into the profession.\(^\text{97}\) Master of Laws (LLM) and Doctor of Laws (LLD) degree programs also exist.\(^\text{98}\) These candidates may specialize in specific areas of study, and the government covers their education.\(^\text{99}\)

\(^{87}\) Wang, supra note 27, at 1210.

\(^{88}\) Id. at 1207.

\(^{89}\) Id. at 1210; Lu, supra note 1, at 290; see Yang, supra note 75, at 19-20.

\(^{90}\) Wang, supra note 27, at 1206-07. Degree programs vary by prerequisites and career plans. See id.

\(^{91}\) Id. at 1206.

\(^{92}\) Id. at 1207.

\(^{93}\) Majors included Jurisprudence, Economic Law, International Law, and Environmental Law. Zeng, supra note 21, at 711.

\(^{94}\) Id.; Wang, supra note 27, at 1209.

\(^{95}\) Zeng, supra note 21, at 711 (listing core courses as Jurisprudence, Constitutional Law, Legal History, Criminal Law, Civil Law, Commercial Law, Criminal Procedural Law, Civil Procedural Law, Economic Law, Administrative Procedural Law, Public International Law, Private International Law, International Economic Law, and Criminalistics).

\(^{96}\) Id. (also noting that an additional three years are required to earn an LLM following the LLB); Wang, supra note 27, at 1207.

\(^{97}\) See Zeng, supra note 21, at 711.

\(^{98}\) Id.

\(^{99}\) Zeng, supra note 21, at 712.
China’s legal education continues to expand at a rapid pace, with over 300 schools established by 2005.\textsuperscript{100} Figures for 2002 indicate over 260 law schools existed in China then, with more than 60,000 students.\textsuperscript{101} Law is one of China’s most popular fields of study.\textsuperscript{102} The quality of legal education has suffered from the sudden increase in students, contributing to the negative image of ineffectual legal professionals associated with China.\textsuperscript{103} The Ministry of Education’s low faculty and space requirements for founding new law departments in Chinese universities partially accounts for this swift growth.\textsuperscript{104} Law faculty, however, are required to hold bachelor degrees or above,\textsuperscript{105} and mandatory retirement ages vary from fifty-five to sixty-five, depending on title.\textsuperscript{106}

2. Becoming a Judge in China

Judges must be citizens of the People’s Republic of China, at least twenty-three years of age, endorse the Constitution, have “fine political and professional quality,” be in good conduct, and have good health.\textsuperscript{107} Candidates must possess up to two years of legal work experience, depending on academic background and credentials.\textsuperscript{108} Less experience is required for candidates possessing a Master’s or Doctor’s Degree of Law.\textsuperscript{109} In 2004, only 3000 judges (about 1.5% of all judges) held masters or doctoral degrees.\textsuperscript{110} Approximately forty-seven percent of the members of the Supreme Court of China, however, hold advanced degrees.\textsuperscript{111} As former military officers and Communist Party officials, many judges have no legal training at all.\textsuperscript{112} In 1994, one court official estimated

\begin{itemize}
\item \textsuperscript{100} He, \textit{supra} note 3, at 145.
\item \textsuperscript{101} Wang, \textit{supra} note 27, at 1205.
\item \textsuperscript{102} \textit{Id}.
\item \textsuperscript{103} He, \textit{supra} note 3, at 148.
\item \textsuperscript{104} \textit{Id}.
\item \textsuperscript{105} Zeng, \textit{supra} note 21, at 713.
\item \textsuperscript{106} \textit{Id}. at 714.
\item \textsuperscript{107} \textit{Judges’ Law}, \textit{supra} note 50, art. 9.
\item \textsuperscript{108} \textit{Id}.
\item \textsuperscript{109} \textit{Id}.
\item \textsuperscript{110} Hung, \textit{supra} note 60, at 100. In 2004, China’s judges totaled approximately 210,000. \textit{Id}.
\item \textsuperscript{111} \textit{Id}.
\item \textsuperscript{112} Lubman, \textit{supra} note 78, at 397; \textit{see} Shen, \textit{supra} note 1, at 217.
\end{itemize}
that approximately half of China’s judges had not completed a university level education.\textsuperscript{113} Many lower court judges lack effective education and have trouble understanding legal concepts.\textsuperscript{114} Unlike in the United States, judges are not necessarily licensed attorneys and usually have no practice experience prior to joining the bench.\textsuperscript{115} To compound this problem, training is often a low priority for courts in less affluent areas, which lack spare resources.\textsuperscript{116}

With China’s recent accession to the World Trade Organization, the country faces more pressure to improve the quality of the judiciary.\textsuperscript{117} The government has undertaken reform measures to achieve this objective by arranging training programs on foreign law and legal systems as models.\textsuperscript{118} The revised Judges’ Law elevated minimum educational requirements to a university degree from a junior college certificate.\textsuperscript{119} According to plans devised by the Supreme People’s Court, incumbent personnel appointed prior to the implementation of the law who do not possess such qualifications will receive training to meet them.\textsuperscript{120} If sitting judges fail to earn these credentials, they will be dismissed or reassigned to other positions in the court system.\textsuperscript{121} There have also been attempts to improve the selection process by recruiting judges from lawyers, professors, and legal researchers.\textsuperscript{122} Newly appointed judges must now pass a national judicial examination and be trained prior to assuming the bench.\textsuperscript{123} In the effort to enhance the judiciary, the practice of appointing clerks to the judiciary

\begin{itemize}
\item \textsuperscript{113} Lubman, supra note 78, at 397.
\item \textsuperscript{114} See Hung, supra note 60, at 101.
\item \textsuperscript{115} Wang, supra note 27, at 1210.
\item \textsuperscript{116} Hung, supra note 60, at 101.
\item \textsuperscript{117} Id. at 108.
\item \textsuperscript{118} Id. at 109-10 (listing training sponsors as the University of Wisconsin, Temple University, the Institute of Judicial Administration at New York University, and the Canadian government). The benefits of training have been modestly successful, yet short-lived. Id. at 111.
\item \textsuperscript{120} Judges’ Law, supra note 50, art. 9.
\item \textsuperscript{121} Hung, supra note 60, at 114.
\item \textsuperscript{122} Id. at 113.
\item \textsuperscript{123} Reforms, supra note 119.
\end{itemize}
following a certain tenure has also been discontinued.\textsuperscript{124} Several courts have implemented a new arrangement where assistants manage secondary matters, thus freeing judges to focus on improving the effectiveness and quality of trials.\textsuperscript{125}

The Ministry of Justice recently implemented a new judicial examination, which is taken by both aspiring judges and attorneys.\textsuperscript{126} The examination now tests candidates on legal theories, existing legal provisions, professional ethics, and their ability to apply law to facts.\textsuperscript{127} In March 2002, over 300,000 candidates took the first revised national judicial examination, and only seven percent passed.\textsuperscript{128} Roughly 45.3\% fewer candidates took the exam the following year due to heightened education prerequisites.\textsuperscript{129}

\textbf{D. The Structure of Lawyers' Associations and the Court System}

\textbf{1. Lawyers' Associations}

As previously noted, the provisional Lawyers' Law established the All China Lawyers Association (ACLA), the national bar association, in 1986.\textsuperscript{130} Membership in local bar associations is mandatory, bringing dual membership with the ACLA.\textsuperscript{131} The functions of lawyers' associations defined in the Lawyers' Law include educating, training, disciplining, and protecting the legal rights of lawyers.\textsuperscript{132}

The ACLA's specific goals include defending the legally recognized rights and interests of its members, enhancing professional competence of lawyers, promoting the advancement of the legal profession, and contributing to the
development of the socialist state with the rule of law.\textsuperscript{133} In working towards these missions, the ACLA has collaborated with the American Bar Association (ABA) on projects furthering citizens’ rights and enhancing knowledge of and access to the legal system.\textsuperscript{134}

The Ministry of Justice oversees both the national and local bar associations.\textsuperscript{135} The consequence of this configuration is that the chairman of the local lawyers’ association is usually a current or former official of the justice bureau.\textsuperscript{136} The National Lawyers Congress of the ACLA convenes every three years to elect its Council, which then selects the ACLA’s President, Vice Presidents, and Executive Council Members.\textsuperscript{137}

2. Court System

The Constitution and the People’s Courts of Law of the People’s Republic of China establish the court system.\textsuperscript{138} There are four levels in the court hierarchy, with the Supreme People’s Court at the national level.\textsuperscript{139} The appellate Higher People’s Courts of each province, the appellate Intermediate People’s Courts of each prefecture, and the Basic People’s Courts of each county follow.\textsuperscript{140} Local governments oversee court personnel and budgets.\textsuperscript{141} In addition to this general court structure, specialized courts, including maritime and military courts, exist as well.\textsuperscript{142} The Supreme People’s Court, and consequently, the judiciary, reports to the National People’s Congress,\textsuperscript{143} which is

\textsuperscript{135} Lo & Snape, \textit{supra} note 47, at 444.
\textsuperscript{136} \textit{Id.}; Luo, \textit{supra} note 53, at 21.
\textsuperscript{137} All China Lawyers Association, \textit{supra} note 133.
\textsuperscript{138} Zou, \textit{supra} note 40, at 1043.
\textsuperscript{139} Cohen & Lange, \textit{supra} note 11, at 351.
\textsuperscript{141} Cohen & Lange, \textit{supra} note 11, at 351.
\textsuperscript{142} Zhang, \textit{supra} note 140, at 60; see Cohen & Lange, \textit{supra} note 11, at 351.
\textsuperscript{143} Cohen & Lange, \textit{supra} note 11, at 351.
controlled by the Chinese Communist Party. Thus, the Communist Party has some control over the appointment and advancement of senior judges.

The Supreme People's Court interprets the law and is responsible for the administration of the judicial court system. The court hears a limited number of appellate cases as well. Judgments are typically brief with little analysis or legal reasoning, but this practice is changing to include reasoning and application of legal theories.

III. IDENTIFICATION OF THE LEGAL PROBLEM

Critics often describe China's attorneys and judiciary as untrained and corrupt. Assessing current structure and customs, however, reveals that attorneys and judges are often constrained by the political pressures commonly found in contemporary China. While deficiencies in education and training do exist, dubious judgments result from more serious issues of independence and reinforce an alternative standard for adjudication based on political power. For example, lawyers are discouraged from representing certain clients, and judges cannot render decisions without fear of political retribution. Legislation theoretically exists to protect such rights, but the government and judiciary habitually ignore and do not implement these rules. Additionally, there are no mechanisms in place to safeguard such rights. The public is not necessarily privy to the complexity of these situations, only observing the puzzling outcomes of so-called

144. See Chua, supra note 2, at 138.
145. Id.
146. Id. at 134.
147. Id.
148. Chua, supra note 2, at 136; see Hung, supra note 60, at 111.
150. See Justice Bureau Opinions, supra note 8.
151. Lubman, supra note 78, at 408; see Hung, supra note 60, at 86.
152. See Hung, supra note 60, at 88-89 (describing retaliation from administrative agencies against lawyers by withholding renewal of their licenses).
154. Id. at 451-52 (relaying lawyers' feelings regarding the bar's limited ability to advocate on behalf of its members).
Both Chinese and international parties are understandably skeptical of the legal system's credibility. These negative perceptions erode faith in the legal system and process, making it more difficult to implement the rule of law and continue to attract foreign investors.

IV. ANALYSIS

Actual practice of both lawyers and judges frequently differs from what the law prescribes. Although both the Lawyers' and Judges' Law guarantee freedom to represent clients or decide cases without governmental interference, officials commonly violate these tenets without repercussion. With no real means of enforcing such rights, lawyers and judges have little recourse. This customary undermining of legislation contributes further to societal cynicism of the legal system and frustrates efforts implementing the rule of law.

A. Lawyers' Rights Articulated in the Lawyers' Law Are Often Disregarded

Under the Lawyers' Law, personal rights may not be infringed when undertaking legal practice. Lawyers may also "meet and correspond with a person whose personal freedom is restricted, appear in court, participate in litigation, and enjoy other rights provided for in the procedure laws." Contrary to these decrees, newspapers regularly report opposite conditions. Criminal defense attorneys in

155. See Cohen & Lange, supra note 11, at 347 (noting that a common criticism of the judiciary is a lack of transparency in the adjudicative process).
156. Zhang, supra note 140, at 63; e.g., Cohen & Lange, supra note 11, at 347; see Shen, supra note 1, at 217.
158. See id. at 350.
159. See Lo & Snape, supra note 47, at 450.
160. See id.
161. See id. at 451-52; see also Hung, supra note 60, at 105.
162. See Hung, supra note 60, at 92-95.
163. Lawyers' Law, supra note 49, art. 32.
164. Id. art. 30.
China are often harassed, placed under surveillance, and arrested on false charges. Attorneys representing politically unpopular clients may also have their licenses to practice law suspended or law firms shut down.

Gao Zhisheng, a well-known outspoken human rights attorney, serves as one recent example. Mr. Gao disseminated writings critical of the Communist Party on the Internet and represented unpopular clients, including Falun Gong members. Although authorities arrested and took Mr. Gao into custody for inciting subversions, they did not explain the evidence or the specific basis for their charges. Authorities also prevented Mr. Gao's defense lawyer, Mo Shaoping, from visiting his client in jail. Both Mr. Gao's family and Mr. Mo were prohibited from attending Mr. Gao's trial.

Mr. Gao's case illustrates multiple actions in conflict with the Lawyers' Law. Although the particular evidence against Mr. Gao is unknown, Mr. Gao's representation of Falun Gong followers is a probable factor. The authorities' unwillingness to clarify their stance is a violation of Mr. Gao's personal rights under the Lawyers' Law. As Mr. Gao's defense lawyer, Mr. Mo has rights under the Lawyers' Law to meet both with his client and participate in the litigation process. The police, however, claimed Mr. Gao's case

Repression of Lawyers, supra note 7 (reciting several newspaper articles highlighting the Chinese government's oppression of attorneys and listing legal advocates subject to government restrictions).


167. See Repression of Lawyers, supra note 7.

168. Id.


170. Yardley, supra note 165.

171. Id.

172. Id.

173. Id.

174. Lawyers' Law, supra note 49, art. 32.

175. Id. art. 30.
involved state secrets, and other laws bar defense lawyers from meeting with suspects in such cases until after a formal indictment has been issued.\textsuperscript{176} This example shows that while lawyers' duties under the Lawyers' Law include protecting the lawful rights of the person who has engaged him,\textsuperscript{177} lawyers have no true power to do so in reality.

Lawyers such as Mr. Gao and Mr. Mo have little recourse in pursuing their causes. Mr. Gao is not able to actually represent controversial clients, such as Falun Gong members, without undesirable personal ramifications. Mr. Mo is not able to truly assist Mr. Gao, a fellow lawyer likely arrested for accepting "the wrong" clients; a lawyer trying to aid a fellow lawyer is barred from effective representation. Any lawyer trying to aid Mr. Mo in his representation is equally powerless. While there may be regulations in conflict with a lawyer's right to give and receive counsel, a lawyer approaching the court for a determination of the hierarchy of laws would likely find the state's position vindicated. This is so because the Chinese judiciary is not independent, but closely connected to the government.\textsuperscript{178} Although lawyers' associations may be entrusted with "protecting lawyers' lawful rights and interests,"\textsuperscript{179} it appears they have no real ability to execute this duty.

Lawyers' associations lack influence largely because both the national and local bar associations fall under the Ministry of Justice.\textsuperscript{180} The associations are essentially lower branches of the government and therefore aligned with the interests of the Communist Party rather than the legal profession.\textsuperscript{181} Some associations even share office space with the justice bureaus.\textsuperscript{182} The associations' lack of actual authority is evident in the area of attorney discipline.\textsuperscript{183} Under the Lawyers' Law, lawyers' associations are responsible for supervising the discipline of lawyers\textsuperscript{184} and the designated

\begin{itemize}
\item \textsuperscript{176} Yardley, supra note 165.
\item \textsuperscript{177} See Lawyers' Law, supra note 49, art. 1.
\item \textsuperscript{178} Yardley, supra note 165.
\item \textsuperscript{179} Lawyers' Law, supra note 49, art. 40.
\item \textsuperscript{180} Lo & Snape, supra note 47, at 444.
\item \textsuperscript{181} See Hung, supra note 60, at 98.
\item \textsuperscript{182} Luo, supra note 53, at 21.
\item \textsuperscript{183} Lu, supra note 1, at 299 (explaining the disciplinary procedures for lawyers lie with judicial administrative agencies, not bar associations).
\item \textsuperscript{184} Lawyers' Law, supra note 49, art. 40.
\end{itemize}
“self-disciplinary organization.” However, the government’s judicial administration department issues disciplinary warnings and imposes sanctions. Even though the power to discipline is technically shared, lawyers’ associations are in effect secondary to the judicial administration department because the department oversees lawyer licensing alone. The Lawyers’ Law also states that “practice by lawyers shall be subject to supervision of the State, society and the parties concerned.” Unless one views the bar as a subset of the State, it is conspicuously absent from this list.

Presently, the All China Lawyers Association (ACLA), the national bar, functions in an advisory role without any true political power or influence. Although the ACLA adopted a code of ethics in 1996, the association is not able to truly promote the ethics of the profession. Governmental interference, as evidenced by Mr. Gao’s case, is inescapable. Lawyers reported benefiting from local bar associations’ training programs and seminars, but also felt the associations could not influence courts to properly follow legal procedures. Furthermore, lawyers believed bar associations were ineffective in solving lawyers’ problems and unable to defend members’ rights and interests. Lawyers also did not feel a sense of belonging to local associations.

Another indication of the profession’s interdependence with the state is the government’s continued regulation of lawyers’ fees. When lawyers were previously designated state workers, the government paid lawyers’ salaries and

185. Id. art. 37.
186. Id. art. 44.
187. Id. art. 11.
188. Id. art. 3.
190. See Lu, supra note 1, at 288; see Luo, supra note 53, at 14.
191. Lo & Snape, supra note 47, at 442.
192. See id. at 452.
193. Id.
194. Id. at 451.
195. Id. at 452.
196. Id.
197. Lawyers’ Law, supra note 49, art. 52.
collected lawyers’ revenues.\textsuperscript{198} However, the Ministry of Justice continues to collect ten to fifteen percent of non-state law firms’ annual profits despite the removal of the state worker label.\textsuperscript{199} While the government’s regulation of lawyers’ fees and associations may simply be remnants of the profession’s past state affiliations, associations must distance themselves from the government if they are to truly act on the behalf of attorneys.

B. Judges Must Consider Political Consequences in Addition to the Law

Principles outlined in the Judges’ Law are similarly ignored. However, where other parties disregard lawyers’ rights under the Lawyers’ Law, it is sometimes the judges themselves who flout the Judges’ Law. For example, the Judges’ Law specifically states that one of a judge’s functions is “to take part in a trial as a member of a collegial panel or to try a case alone according to law.”\textsuperscript{200} Yet Chinese judges regularly practice qingshi, a procedure where lower court judges consult higher judges for advice.\textsuperscript{201} Qingshi further weakens the integrity of the judicial system, especially if the higher judges are assigned appellate review of the lower court rulings. The practice of qingshi effectively creates a review of one’s own judgment. The popularity of this routine results from a combination of poor judicial training, vague wording in Chinese legislation, and lack of detail regarding the basis for rulings.\textsuperscript{202} China also has no system of federalism or constitutional review,\textsuperscript{203} so it is understandable why qingshi is so widely practiced; a Chinese judge is subject to discipline for unwittingly issuing politically “incorrect” rulings, often termed “erroneous” judgments.\textsuperscript{204}

In 2005, Judge Li Huijuan’s dilemma attracted international attention to the difficulty of being a Chinese

\textsuperscript{198} See Lu, supra note 1, at 293.
\textsuperscript{199} Luo, supra note 53, at 20.
\textsuperscript{200} Judges’ Law, supra note 50, art. 5.
\textsuperscript{201} Hung, supra note 60, at 99.
\textsuperscript{202} See id.
\textsuperscript{203} See id. at 116 (noting also the lack of a constitutional amendment to establish a transparent mechanism to review the constitutionality of legislation).
\textsuperscript{204} Id. at 99.
judge.\textsuperscript{205} While adjudicating a case involving a conflict between national and provincial laws, Judge Li declared the provincial law invalid, the first time such a proclamation was made.\textsuperscript{206} Within days, the Court’s discipline committee contacted Judge Li.\textsuperscript{207} Provincial officials objected to the ruling, citing “a serious political error.”\textsuperscript{208} The government considered Judge Li’s actions a “judicial revolt”\textsuperscript{209} in a system where a complaint from a governmental official or influential citizen can result in a judge’s dismissal.\textsuperscript{210} This account illustrates that in China, “the government, not a court, is the final arbiter of law.”\textsuperscript{211} Compounding this problem is the local governments’ sole authority to clarify the laws they legislate as well as mandate enforcement by courts.\textsuperscript{212} Contemporary judicial training emphasizes law above the interests of the government, \textsuperscript{213} but given Judge Li’s experience and the existing pressures on the judiciary, it is difficult to believe that a judge will be able to actually rule in this manner.

Judges are also held solely accountable for decisions made by committees of court officials.\textsuperscript{214} Although Judge Li had actually consulted with and received the approval of court officials in rendering her decision, she was the only one who faced punishment.\textsuperscript{215} While a judge has the right to “brook no interference from administrative organs, public organizations or individuals in trying cases according to law,”\textsuperscript{216} political pressure trumps law in reality.\textsuperscript{217}

These customs are derivative of how the court system is structured. In practice, the Chinese legal system is basically a subservient arm of the government, not an independent

\footnotesize{206. Id.}
\footnotesize{207. Id.}
\footnotesize{208. Id.}
\footnotesize{209. Id.}
\footnotesize{210. Id.}
\footnotesize{211. Yardley, supra note 205.}
\footnotesize{212. Lubman, supra note 78, at 390.}
\footnotesize{213. Yardley, supra note 205.}
\footnotesize{214. See id.}
\footnotesize{215. Id.}
\footnotesize{216. Judges’ Law, supra note 50, art. 8.}
\footnotesize{217. See Hung, supra note 60, at 94-95.}
entity. The President of the People’s Supreme Court, also known as the Chief Justice, does not rank among the highest officials in the government and is elected and removed by the National People’s Congress.\textsuperscript{218} This arrangement is indicative of the hierarchy between the legislative and judicial branches of government. Similarly, the local governments both appoint and remove presidents of local courts according to standards set by local congresses.\textsuperscript{219}

The Judges’ Law articulates standards for a judge’s removal, but the criteria are vague.\textsuperscript{220} A judge may be discharged if found incompetent for two successive years during the annual appraisal, but the law does not define how to measure competence.\textsuperscript{221} Perhaps the greatest flaw in the current arrangement is assigning local governments the authority to oversee both the personnel and budget of local courts.\textsuperscript{222} When a judge’s paycheck depends on the government, the government is in essence the judge’s superior, creating an inherent conflict of interest. In an environment like China’s, where the rule of law is not firmly established, it is very difficult for judges to ignore or not honor governmental officials’ requests.\textsuperscript{223} Although governments in other countries, including the United States, furnish judges with salaries, this conflict of interest is not as pronounced because the rule of law dominates.

Presently, bureaucrats at the top of the structure are initiating judicial reforms.\textsuperscript{224} Officials at the Supreme People’s Court have announced plans focusing on standardizing judicial conduct, promoting equity, increasing transparency, and eliminating judicial corruption.\textsuperscript{225} The government will implement these proposals by increasing oversight and evaluation of judicial activities.\textsuperscript{226} Courts have

\begin{itemize}
\item \textsuperscript{218} Judges’ Law, supra note 50, art. 11.
\item \textsuperscript{219} Id.
\item \textsuperscript{220} See id. art. 13.
\item \textsuperscript{221} Id. art. 38.
\item \textsuperscript{222} Hung, supra note 60, at 96.
\item \textsuperscript{224} See The Court Will Work Harder to Deal with Illegal Activities of Judges, CHINA COURT, July 20, 2005, http://en.chinacourt.org/public/detail.php?id=3918&k_title=judge&.
\item \textsuperscript{225} See Rule of Law Progresses, supra note 223.
\item \textsuperscript{226} Id.
\end{itemize}
also made a deliberate effort to assign penalties in accordance with the law.\textsuperscript{227}

Ironically, Chinese legislation's imprecise language actually reinforces judicial liberties and freedom.\textsuperscript{228} Laws are worded very generally, thereby allowing judges to easily justify their decisions.\textsuperscript{229} Although some courts have pledged to refrain from punishing judges if a ruling is considered politically or legally flawed,\textsuperscript{230} this is simply the first step towards progress. Several scholars believe China's accession to the World Trade Organization and China's wish to legitimize the courts are additional incentives towards judicial independence.\textsuperscript{231}

C. The Structure of the Bar and the Judiciary, not Education and Training, are the Fundamental Problem

The exponential growth in law students has negatively affected the quality of Chinese legal education, but the government has now established policies to curb further growth and to prevent further dilution.\textsuperscript{232} As previously noted, however, there are still minimal faculty and physical space requirements for founding new law departments in Chinese universities.\textsuperscript{233} The lack of interaction between legal practitioners and the academic world is another frequently raised problem.\textsuperscript{234}

Academics and practicing professionals must foster relations to best prepare legal students for flexibility and responsiveness in China's changing legal and economic environment. Although many current lawyers are not

\textsuperscript{228} Lubman, supra note 78, at 391 (also explaining how the ambiguous wording of Chinese legislation is intentional because flexibility is a primary aim of Chinese legislative drafting. Vague language permits bureaucrats to modify the meaning of the law to fit the situation at hand).
\textsuperscript{229} Id.
\textsuperscript{230} Yardley, supra note 205.
\textsuperscript{231} See Hung, supra note 60, at 124 (describing statements by Chinese leaders and courts recognizing accession and pledges to the World Trade Organization as an "unprecedented opportunity" for legal reform to fulfill commitments as a WTO member).
\textsuperscript{232} See He, supra note 3, at 148.
\textsuperscript{233} See supra note 104 and accompanying text.
\textsuperscript{234} He, supra note 3, at 149; Wang, supra note 27, at 1211.
properly trained due to the immediate initial need for lawyers, the public’s perception of legal professionals will gradually improve with time due to the implementation of higher educational standards and continuing education programs.

Even if Chinese legal institutions are able to raise the quality of their programs, thereby improving the quality of the bar, these advances are of little value if lawyers are consistently frustrated by political interference. They cannot effectively utilize their skills in such an environment. The present configuration and atmosphere limits the future development of both judges and attorneys as trusted professionals. Local governments determine court budgets, judges’ salaries, and other benefits, resulting in both immense pressure on judges and judicial protectionism. Judges are understandably reluctant to rule against any fines levied by the local government or parties who enhance the local economy. Decisions against local governments and government agencies may affect salaries and promotions. Certain courts are even assigned target amounts of fines to collect per year. Consequently, some courts stage fraudulent trials to meet these goals.

Despite constitutional and legislative language that confers the power to decide cases independently, courts are subject to tight political control by these local governments. For example, it is not uncommon for officials to “visit” with judges outside the courtroom for “consultations.” If there are conflicts between Communist Party policies and the law, judges are expected to handle a case in accordance with party policies, including those regarding economic development and social stability. Therefore, a judge must consider the potential impact of her decisions on the economy and social

235. See Lu, supra note 1, at 323.
236. Hung, supra note 60, at 96.
237. Id. at 98.
238. Id. at 96-97.
239. Id. at 95.
240. See id. at 96.
241. Id. at 96.
242. Hung, supra note 60, at 96.
243. See id. at 98.
244. See id. at 92.
245. Id.
Judges are praised for “being good soldiers of the state, not wise dispensers of justice.” In the words of one scholar, “Chinese legislation is perpetually in half focus as it fades into its background context of Party decisions and policy documents. It consequently fails to achieve a separate identity as a formal source of Chinese law.”

Although governmental interference is a widely acknowledged problem, courts do have some power to impose sanctions against officials. In 2006, the courts convicted 825 government officials above the county level of corruption, bribery, and other job-related crimes. Sentenced officials included a former vice governor, and nine provincial or ministerial level officials. The previous year marked an eighteen percent decrease in complaints regarding judicial misconduct, though courts still found 378 judges had abused power for personal gain.

Courts are directly dependent on local governments for funding and staffing. Thus, any cases involving governmental agencies or citizens with connections to the government are almost certainly resolved in favor of political brawn. Two judges have said, “if the law is ambiguous and the administrative organs’ interpretation is different from the judges’ interpretation, whoever has higher rank wins.” This type of system echoes Chinese culture’s emphasis on guanxi. One’s familiarity with an influential person who

246. See id.
247. Lubman, supra note 78, at 398.
250. Id. Chief Justice Xiao Yang emphasized the courts’ commitment to continue punishing such crimes according to law. Id.
251. Id.
253. Hung, supra note 60, at 96.
254. Id.
255. Id. at 93 (quoting interviews with two judges in Guangzhou, Guangdong).
256. Guanxi, loosely defined as personal connections, are an integral component of Chinese culture. People commonly utilize these relationships to
can bend the rules, rather than the rules themselves, determines the outcome. Potential clients have been known to ask lawyers about their personal relationships with judges in hopes of obtaining a favorable verdict. A law professor admitted, "If I am involved in any legal dispute, the first thing that comes to my mind is not law, but connections." Lawyers often entertain judges who preside over their cases. Lawyers' personal connections with judges have resulted in enough successful outcomes in the past to compel the Supreme People's Court to implement laws governing the relationship between judges and lawyers.

The use of guanxi often results in disparate treatment under the law, further diminishing respect for the rule of law while reinforcing alternate measures of justice. Prior to the 1990s, leaders were subject to deteriorations in guanxi, not rules of law. Lawyers have identified cultivating guanxi with judges and legal officials as the worst aspect of their jobs. Even so, lawyers still feel compelled to nurture these relationships to stay competitive with other firms and to maintain business despite a recognized risk to professional integrity.

The current structure provides no incentive for change, but rather reinforces corruption, interference, and guanxi. No inducements exist to adhere to ethical behavior since both lawyers and judges may expose themselves to political retribution.

obtain goods, secure employment, or school admission. The Chinese often term the use of these connections as "going through the back door." ENCYCLOPEDIA OF CHINA: THE ESSENTIAL REFERENCE TO CHINA, ITS HISTORY AND CULTURE 103 (Dorothy Perkins ed., Roundtable Press 1999).

257. Hung, supra note 60, at 94.
259. Hung, supra note 60, at 94-95 (quoting interview with a professor in Chongqing).
260. Lubman, supra note 78, at 389.
262. Cohen & Lange, supra note 11, at 350.
263. See, e.g., Zou, supra note 40, at 1057.
265. Lo & Snape, supra note 47, at 450.
266. Id.
V. PROPOSAL

Given China's current political agenda and climate, Chinese lawyers and judges cannot realistically achieve the same level of Maslow's hierarchy of needs their American counterparts enjoy. A truly independent Chinese judiciary is not viable without political reform, although the influence of an independent judiciary would likely trickle down to affect the behavior and focus of lawyers. If the government genuinely desires to implement the rule of law effectively,\(^\text{267}\) it must realize that the Communist Party needs to relinquish some control.\(^\text{268}\) There are intermediate stages between the present state and an independent judiciary. Such middle ground will afford lawyers and judges greater liberty, and also aid in restoring the public's faith in the fairness of the judicial process.

The government must restructure the legal system to enable China's legal profession to develop more fully. The changes proposed here may initially seem contrary to political goals of social stability. Similarly, increasing the autonomy of the legal profession and the judiciary may appear to translate to a decrease in loyalty to the government. While these views are not without merit, the proposed changes are necessary investments in the long-term interests of China's economic and social structures.

The Communist Party need not relinquish all control, but should exercise restraint and interfere only when absolutely necessary to preserve social stability. A "hands-off" philosophy of the central government would also serve as a role model for local governments, leading by example. To hasten acceptance of such a new attitude, the central government should make efforts to punish local governments who insist upon interfering with the work of attorneys and the judiciary.

In evaluating the feasibility of implementing these proposals, one must remember to recognize the relative youth of China's revived legal system and concede that it takes time to develop rules, customs, practices, and attitudes. Given the advancement of China's legal profession since reinstitution three decades ago, the enormous changes Chinese society has

\(^{267}\) See Rule of Law Progresses, supra note 223.

\(^{268}\) See Lubman, supra note 78, at 399.
witnessed, and China’s accession to the World Trade Organization, legal reform may become a reality in the near future.

A. Restructure to Minimize Governmental Interference and Judicial Reliance on Local Governments

Judges will be less pressured to yield to local officials if local governments no longer supervise court personnel and budgets. While political pressure is unavoidable to a certain extent, financial independence reduces the possible retribution for an unfavorable decision against the government or local interests. Governmental interference may still exist, but officials will have less leverage if they are not directly in control of a judge’s job security.

If the Chinese government sincerely wishes to implement the rule of law, the government must elevate the court system so that it is not subservient to the legislature at both the national and local levels. Ideally, the court system would exist as a parallel and equal entity to both the national and local governments. To symbolize the importance and power of the judiciary, the President of the Supreme People’s Court should be one of the highest ranking governmental officials in the country. Personnel and budgets should flow directly down from the Supreme People’s Court rather than local governments. By establishing a federally funded judicial system, judges’ salaries and loyalty are tied to the country rather than the locality. Judges’ salaries should also be set at a level where bribery is less effective.

This proposed structure recognizes and accepts that the Communist Party is unlikely to surrender all power over the judiciary. By dispersing control at lower levels into entities separate and co-equal to the government, this scheme creates the opportunity for greater judicial independence. While such reform may initially create more turmoil by alienating local interests, it is an investment in China’s attractiveness to investors and long term growth.269

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269. Lubman, supra note 78, at 406-07.
B. Restructure to Protect Lawyers from Political Pressure and Retribution

As with the judiciary, it is unrealistic to expect a wholly independent bar, but still possible to allocate more authority to the ACLA and local bar associations in regulating the legal profession. Western countries with a mature professional class of attorneys usually feature self-regulating associations, an ethical code, law training programs provided by universities, a qualifying examination, and an ideology of service. Self-regulation is common for countries with a developed class of legal professionals, and provides more shelter from political reprisal from the government.

At a minimum, the ACLA, not the Ministry of Justice, should oversee lawyer licensing. The ACLA should also be wholly responsible for all aspects of the qualification exam, including determining standards for passage. Because lawyers are locally licensed, local governments often threaten lawyers with license revocation for representing clients in cases adverse to local interests. A national licensing scheme would significantly reduce this problem.

The government will reap benefits from allowing the bar association to have greater authority. Lawyers' associations should also be the main, if not sole, disciplining body for the profession. As long as the government routinely impedes lawyers' advocacy efforts, attorneys' abilities to perform their jobs are dependent on government's whim. Greater investment by foreign entrepreneurs and an improved international human rights image will outweigh the social control costs the government incurs in exercising self-restraint. These rewards will translate into greater benefits for Chinese society and strengthen lawyers' roles in society. Although lawyers currently wield little political power, an enhanced persona for the profession will enable lawyers and their associations to work together with the government more effectively in a move toward the rule of law.

270. Lo & Snape, supra note 47, at 437; Lu, supra note 1, at 288.
271. Lu, supra note 1, at 288.
272. See Hung, supra note 60, at 89.
273. Lo & Snape, supra note 47, at 452.
C. Draft More Detailed Statutes

China would also benefit from utilizing more specific wording in its laws. Investors complain of inconsistent Chinese judgments based on unclear criteria under Chinese law, rendered and enforced by a non-independent judiciary. These objections pose significant disincentives to foreign and domestic entrepreneurs alike. Assuming judges are not subject to interference by local governments, more detailed statutes would promote consistency in judgments, boosting confidence in the equality of the court system.

Judges would also be less willing and able to take liberties with their judgments. With more detailed criteria, accountability increases because it would be more difficult for judges to engage in corruption and manipulate the law.

VI. CONCLUSION

If lawyers and judges are to maximize their potential for self-actualization in China's present political state, the government must implement changes in the current structure of the bar association and the judiciary. While China has made considerable progress in reinstituting the legal profession, governmental interference often limits advocacy efforts. A more independent judiciary is needed to promulgate the rule of law and inspire public confidence in the objectiveness of the judicial process. Although expectations of a completely independent Chinese legal system are unrealistic given China's political climate, governmental restructuring and redrafting legislation will decrease opportunities and incentives for corruption. These measures are significant steps towards fostering self-actualization and a reliable rule of law.

274. Cohen & Lange, supra note 11, at 347.
275. See He, supra note 3, at 145.
276. Hung, supra note 60, at 108.