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Article 1

Facing the Unravelling of Reform: Domestic and International Perspectives on the Changing Role of China's Rights Lawyers

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INTRODUCTION

FACING THE UNRAVELLING OF REFORM:

DOMESTIC AND INTERNATIONAL
PERSPECTIVES ON THE CHANGING ROLE OF
CHINA’S RIGHTS LAWYERS

*Martin S. Flaherty**

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Just weeks before the symposium that featured the scholars and advocates in this Issue of the *Fordham International Law Journal*, police in Beijing arrested Yu Wensheng, a prominent Chinese human rights lawyer as he was taking his son to school.¹ Yu was moved to Jiangsu province where the Tongshan Branch of the Xuzhou City Public Security Bureau placed him under “residential surveillance in a designated location,” a form of secret incommunicado detention in Beijing.² He was never once allowed to see his wife or family, or meet with lawyers whom he had previously selected and she had hired on his behalf.³

Just weeks after the symposium, the Xuzhou City Public Security Bureau (“XCPSB”) formally arrested Yu on suspicion of “inciting

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1. *Yu Wensheng: China human rights lawyer arrested on school run*, BBC NEWS (Jan. 19, 2018), <https://www.bbc.com/news/world-asia-china-42743961> [<https://perma.cc/8R95-TUHT>].

2. *Urgent Action: Human Rights Lawyer Detained Incommunicado*, AMNESTY INT’L (Mar. 21, 2018), <https://www.amnesty.org/download/Documents/ASA1781062018ENGLISH.pdf> [<https://perma.cc/EYU2-YVKN>].

3. *Id.*

subversion of state power” and “obstructing the duties of public officers,” the first charge holding the possibility of a maximum sentence of 15 years.⁴ The day before, two family-appointed lawyers had sought to meet with Yu.⁵ Officers at the Tongshan Branch, however, produced a statement allegedly written by Yu dismissing them and asking his wife not to hire any new counsel.⁶ In response the family released a video that Yu had made prior to his current detention, in which he stresses that he would never dismiss his own lawyers unless he had been subjected to torture.⁷

As yet unresolved, Yu’s case is as representative as it is disturbing. More than any other country, China has staked out the claim for the dubious distinction of world leader in the intimidation, persecution and torture of lawyers and human rights advocates who in any way challenge the regime’s monopoly on power. Yu’s career in part reflects the larger story. He had established his reputation as a defender of unpopular clients in several high-profile cases in which he represented practitioners of Falung Gong, an outlawed spiritual practice in China, as well as fellow human rights lawyer Wang Quanzhang.⁸ He has also been publicly outspoken, among other things, decrying the deterioration of the rule of law under Xi Jinping.⁹ As a result has been detained and tortured.¹⁰ Not long after he offered public

4. *Id.*

5. *Id.*

6. *Id.*

7. Hong Kong Free Press, *‘I will not accept gov’t-appointed lawyer unless tortured,’ arrested Chinese lawyer Yu Wensheng says*, YOUTUBE (Apr. 26, 2018), <https://www.youtube.com/watch?v=XD0VYOAPWoE> [<https://perma.cc/L5TX-XMCG>].

8. Yang Jianli, *We don’t even know if this heroic Chinese lawyer is alive or dead*, THE WASHINGTON POST (Feb. 26, 2018), https://www.washingtonpost.com/news/democracy-post/wp/2018/02/26/we-dont-even-know-if-this-heroic-chinese-lawyer-is-alive-or-dead/?noredirect=on&utm_term=.c1eeafe4dc3e [<https://perma.cc/L3UL-HRZ4>].

9. YU WENSHENG, *URGING THE 19TH PARTY CONGRESS TO OUST XI JINPING AND FULLY IMPLEMENT STRUCTURAL POLITICAL REVIEW* (2017), <https://www.ir2008.org/en/citizens-square/urging-19th-party-congress-oust-xi-jinping-and-fully-implement-structural-political> [<https://perma.cc/HJG3-WTFN>].

10. Lawyer Yu Wensheng Files Complaint About Police Torture, HUMAN RIGHTS IN CHINA (Nov. 22, 2015), <https://www.hrichina.org/en/citizens-square/lawyer-yu-wensheng-files-complaint-about-police-torture> (translating Wensheng’s account of the torture he endured in 2014) [<https://perma.cc/R6EB-JNMA>]; Hong Kong Free Press, *‘I will not accept gov’t-appointed lawyer unless tortured,’ arrested Chinese lawyer Yu Wensheng says*, YOUTUBE (Apr. 26, 2018), <https://www.youtube.com/watch?v=XD0VYOAPWoE> (showing testimony of Wensheng that he would not fire his lawyers unless tortured) [<https://perma.cc/FVF6-K5QE>]; *Detained Chinese Rights Lawyer ‘Fires’ Defense Team Under Suspected Duress*, RADIO FREE ASIA (Apr. 23, 2018), <https://www.rfa.org/english/news/china/yuwensheng-duress-04232018>

support for the umbrella movement for democratic reform in Hong Kong, Beijing authorities detained Yu for 99 days, during which by his account he was denied access to a lawyer, questioned over 200 times, and painfully handcuffed to an iron chair with his hands behind his back.¹¹ He was again briefly detained and mistreated in the fall of 2017 after writing an open letter criticizing Xi.¹²

Ill-treatment of lawyers such as Yu became increasingly common after the 2008 Beijing Olympics. The noted constitutional advocate and scholar, Teng Biao, who participated in this Symposium, was himself detained and tortured that year.¹³ A significant upsurge occurred, not coincidentally, during the Arab Spring of 2011, as dozens of lawyers and human rights advocates met similar fates, a crackdown reported by the Leitner Center on International Law and Justice and the associated Committee to Support Chinese Lawyers.¹⁴ Even this response paled in comparison to mass detentions of July 9, 2015.¹⁵ The arrest of Wang Yu commenced the mass detention of over 250 human rights lawyers and advocates across China in perhaps the greatest concentrated campaign against the legal profession yet seen in any nation. These events, since known as the “709” crackdown, continue to cast an enormous shadow. The fate of China’s rights lawyers has already inspired important monographs by Eva Pils¹⁶ and Terrance Halliday and Sida Liu.¹⁷ It is also among the reasons Carl Minzner has entitled

130813.html (explaining that Wensheng has recently fired his lawyers) [<https://perma.cc/QM9J-V4M9>].

11. AMNESTY INTERNATIONAL, *supra* note 2.

12. *Id.*

13. Teng Biao, *Atrocity in the Name of the Law*, CHINA CHANGE (Dec. 7, 2017), <https://chinachange.org/2017/12/07/atrocity-in-the-name-of-the-law/> [<https://perma.cc/B56Q-N7NG>].

14. LEITNER CENTER FOR INTERNATIONAL LAW AND JUSTICE & THE COMMITTEE TO SUPPORT CHINESE LAWYERS, *PLIGHT AND PROSPECTS: THE LANDSCAPE OF CAUSE LAWYERS IN CHINA 5-6* (2015).

15. *A Year on China’s Crackdown on Human Rights Lawyers*, AMNESTY INTERNATIONAL (June 22, 2016), <https://www.amnesty.org/en/latest/campaigns/2016/07/one-year-since-chinas-crackdown-on-human-rights-lawyers/> [<https://perma.cc/GRF7-MLKJ>].

16. EVA PILS, *CHINA’S HUMAN RIGHTS LAWYERS: ADVOCACY AND RESISTANCE* (2014). Eva Pils is Reader in Transnational Law at The Dickson Poon School of Law at King’s College London. She also co-founded the Centre for Rights and Justice as Associate Professor at The Chinese University of Hong Kong and has been a Visiting Professor of Law at Columbia Law School.

17. SIDA LIU & TERRANCE C. HALLIDAY, *CRIMINAL DEFENSE IN CHINA: THE POLITICS OF LAWYERS AT WORK* (2016). Terrance Halliday is an Adjunct Professor of Sociology at Northwestern University, Honorary Professor at the School of Regulation, Justice and Diplomacy, and Fellow at the College of Asia and the Pacific at Australian National University.

his insightful book on China's authoritarian revival, the *End of An Era*—among other things, the era of legal reform.¹⁸

Yet there remains much to be said, especially as the repression of lawyers such as Yu Wensheng continue. This Symposium Issue brings together many of the leading experts, scholars, and advocates on the plight and prospects of rights lawyers in China.

I. *WHY LAWYERS?*

Any symposium focusing on the plight of lawyers invites an immediate challenge. Why concentrate on a professional elite when so many more ordinary people from human rights violations that are no less, and in some ways even more, egregious?¹⁹ Are not lawyers better equipped, in legal knowledge, education, and connections, than any other group to fend off official harassment and persecution? Should not advocates, especially foreign advocates, concentrate their support on the many who are least well placed to defend themselves, than the few who are best placed? Does not the specter of lawyers protecting lawyers at the end of the day reflect concern for members of the club, and so indifferent to the rest?

The answer in each instance is: No. To the contrary, the argument for devoting even scarce resources to the persecution of lawyers is compelling. Simply stated, lawyers matter beyond their numbers, and for that reason have been subject to increased targeting. This imperative has a number of components worth unpacking. As a threshold matter, lawyers by definition possess a “multiplier effect.”²⁰ Silencing one attorney not only eliminates that voice, but also renders voiceless any

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18. CARL MINZNER, *END OF AN ERA: HOW CHINA'S AUTHORITARIAN REVIVAL IS UNDERMINING ITS RISE* 23-26 (2018). Carl Minzner is a Professor of Law at Fordham University School of Law and was previously an Associate Professor of Law at Washington University in St. Louis. He has also served as Senior Counsel for the Congressional-Executive Commission on China, International Affairs Fellow for the Council on Foreign Relations, and was a Yale-China Legal Education Fellow at the Xibei Institute of Politics and Law in Xi'an, China.

19. See U.S. DEP'T OF STATE BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, *CHINA 2017 HUMAN RIGHTS REPORT* (2017), <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> [<https://perma.cc/L57D-34RS>].

20. The effect of persecuting lawyers not only oppresses the individual lawyer, but every individual who ever has been or could later be the lawyer's client, thus multiplying the oppressors' impact.

and all clients that the attorney represents, and many more who may share the same interests as those clients. Governments, China's chief among them, understand this, and more and more have been responding both "horizontally" and "vertically."²¹ One horizontal response has been global. China is effectively the leader of a worldwide crackdown against lawyers who in any way challenge authoritarian regimes.²² The list includes Russia, Egypt, Turkey, Cuba, Iran, Vietnam, not to mention instances in the United Kingdom and the United States.²³ A further horizontal response has taken place within China. Over the past several years, assaults on the legal profession have expanded beyond a core targeted group of "impact" rights lawyers, to criminal defense counsel, tort lawyers, and even to corporate attorneys and firms that engage in certain pro bono work.²⁴ Finally, China's crackdown on

21. Governments oppress lawyers horizontally by targeting not only human rights lawyers, but also criminal defense lawyers who defend those that the government seeks to punish, and further, torts lawyers who call for accountability of those including government institutions, and even wider expanded to private practice attorneys performing pro bono work in the interest of human rights. Governments also oppress rights lawyers vertically from both directions; police officers and jail workers implement harsh policies, including torture, while those with the most powerful positions craft and strategize policies that will allow oppression to continue.

22. Teng Biao, *What will this crackdown on activists do to China's nascent civil society?*, THE GUARDIAN (Jan. 24, 2015), <https://www.theguardian.com/commentisfree/2015/jan/24/crackdown-activists-china-nascent-civil-society-pu-zhiquaing> [https://perma.cc/43KD-RGYH].

23. *Suppression of Lawyers in the Russian Federation*, LAWYERS FOR LAWYERS, <http://www.advocatenvooradvocaten.nl/countries/russianfederation/> (last visited on June 14, 2018) [https://perma.cc/7YTY-7QYX]; U.S. DEP'T OF STATE BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, EGYPT 2017 HUMAN RIGHTS REPORT (2017), <https://www.state.gov/documents/organization/277483.pdf> [https://perma.cc/Y9XZ-96MM]; U.S. DEP'T OF STATE BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, TURKEY 2017 HUMAN RIGHTS REPORT (2017), <https://www.state.gov/documents/organization/277471.pdf> [https://perma.cc/6RYP-6F32]; *Cuba: Events of 2016*, HUMAN RIGHTS WATCH (2016), <https://www.hrw.org/world-report/2017/country-chapters/cuba> [https://perma.cc/AN78-ZSTM]; *Human rights situation in Iran warrants serious concern, UN expert reports*, UN NEWS (Mar. 11, 2013), <https://news.un.org/en/story/2013/03/434032-human-rights-situation-iran-warrants-serious-concern-un-expert-reports> [https://perma.cc/NQL5-7LLD]; *No Country for Human Rights Activists: Assaults on Bloggers and Democracy Campaigners in Vietnam*, HUMAN RIGHTS WATCH (June 18, 2017), <https://www.hrw.org/report/2017/06/18/no-country-human-rights-activists/assaults-bloggers-and-democracy-campaigners> [https://perma.cc/7FMF-EHZM]; Lizzie Dearden, *Lawyers call for strike over 'relentless legal aid cuts'*, THE INDEPENDENT (Mar. 29, 2018), <https://www.independent.co.uk/news/uk/home-news/legal-aid-cuts-lawyers-strike-criminal-bar-association-justice-gauke-a8280226.html> [https://perma.cc/JB33-7R7U]; Rebecca Buckwalter-Poza, *Making Justice Equal*, CENTER FOR AMERICAN PROGRESS (Dec. 8, 2016), <https://www.americanprogress.org/issues/criminal-justice/reports/2016/12/08/294479/making-justice-equal/> [https://perma.cc/2JSX-RZAM].

24. See Thomas Stevenson, *The Precarious Lives of Criminal Defense Lawyers in China*, THE ATLANTIC (July 23, 2013), <https://www.theatlantic.com/china/archive/2013/07/the->

lawyers has also taken on an ever more pressing vertical element. Where previously harassment and intimidation came from local officials, today under Xi Jinping, it appears to issue from the highest levels, top-down, as a concerted campaign.²⁵

Consider more in depth first the multiplier effect. Estimates figure that China today boasts over 300,000 lawyers.²⁶ In itself that number represents a stunning achievement. When Deng Xiaoping set out to rebuild the legal system after the end of the Cultural Revolution, starting around 1979, the nation had virtually no lawyers at all.²⁷ As is true in most countries, authoritarian states especially, the number of attorneys who regularly engage in rights advocacy remain but a small fraction. Most estimates range in the hundreds.²⁸ Thanks in part to their scarcity, each one cannot help but represent numerous clients on a range of issues. Take the charismatic Pu Zhiqiang. Among others, he has represented Tang Hui, who was sentenced to reeducation through labor for a campaign to rescue her daughter from kidnapping and forced prostitution²⁹; Tan Zuoren, who was imprisoned after exposing government corruption in the poor construction of school that collapsed during the 2008 Sichuan earthquake³⁰; Karma Samdrup, a Tibetan

precarious-lives-of-criminal-defense-lawyers-in-china/278049/ [https://perma.cc/S6KN-XD2S]; see also, Abby Seiff, *China's latest crackdown on lawyers is unprecedented, human rights monitors say*, ABA JOURNAL (Feb. 2016), http://www.abajournal.com/magazine/article/chinas_latest_crackdown_on_lawyers_is_unprecedented_human_rights_monitors [https://perma.cc/6772-Q4ZS].

25. *China's probes of rights lawyers 'alarming': Human Rights Watch*, REUTERS (Sept. 20, 2017), <https://www.reuters.com/article/us-china-rights/chinas-probes-of-rights-lawyers-alarming-human-rights-watch-idUSKCN1BV108> [https://perma.cc/XDV3-64T7].

26. Alex Palmer, *'Flee at Once': China's Besieged Human Rights Lawyers*, N.Y. TIMES MAGAZINE (July 25, 2017), <https://www.nytimes.com/2017/07/25/magazine/the-lonely-crusade-of-chinas-human-rights-lawyers.html> [https://perma.cc/LX4T-PYS3].

27. *Id.*

28. COMMITTEE TO SUPPORT CHINESE LAWYERS & THE LEITNER CENTER FOR INTERNATIONAL LAW AND JUSTICE, *supra* note 14, at 30-31.

29. Didi Kirsten Tatlow, *Debate Rages After Death Sentences Overturned in Child Prostitution Case*, SINOSPHERE (June 13, 2014), <https://sinosphere.blogs.nytimes.com/2014/06/13/debate-rages-after-death-sentences-overturned-in-child-prostitution-case/> [https://perma.cc/5VJK-3W67].

30. Agence France-Presse, *Chinese earthquake activist Tan Zuoren released after five-year prison term*, THE GUARDIAN (Mar. 27, 2014), <https://www.theguardian.com/world/2014/mar/27/chinese-activist-tan-zuoren-released-five-year-prison-term> [https://perma.cc/P57F-A72A].

environmentalist³¹; and the noted artist Ai Weiwei.³² Pu has since been imprisoned for “picking quarrels and provoking troubles.”³³ Removing him necessarily exposes his clients, both current and potential. His neutralization in addition reduces a scarce resource, given the small percentage of rights lawyers. Moreover, the targeting of Pu also has a chilling effect on the group that remains. Pu’s fate provides a poignant example of the Chinese saying, “kill the chicken to scare the monkeys.”³⁴

The plight of China’s rights lawyers merits further attention as part of a global, “horizontal” phenomenon. Hand in hand with the recent rise of authoritarian regimes has been the suppression of lawyers and judges who in any way might challenge their authority.³⁵ Recently, the UN Human Rights Council (the “Human Rights Council”), rarely the world’s most audacious institution, condemned, “the increasingly frequent attacks on the independence of judges, lawyers, prosecutors and court officials, in particular threats, intimidation and interference in the discharge of their professional functions.”³⁶ Though the Resolution did not specify any particular states, there is no shortage of candidates in any region. Crackdowns against human rights lawyers have occurred throughout Eastern Europe, including Russia, Ukraine, Belarus, Moldova, and Azerbaijan.³⁷ Recent echoes of deadly persecution of unpopular attorneys have sounded at the other end of the

31. Andrew Jacobs, *Tibetan Environmentalist Receives 15-Year Sentence*, THE N.Y. TIMES (June 24, 2010), <https://www.nytimes.com/2010/06/25/world/asia/25tibet.html?mtrref=www.google.com> [https://perma.cc/B9YJ-2CNE].

32. Lizzie Dearden, *Pu Zhiqiang: Chinese court convicts prominent human rights lawyer who defended Ai Weiwei over Weibo posts*, THE INDEPENDENT (Dec. 22, 2015), <https://www.independent.co.uk/news/world/asia/pu-zhiqiang-chinese-court-convicts-prominent-human-rights-lawyer-who-defended-ai-weiwei-over-weibo-a6783296.html> [https://perma.cc/7F7G-GLFF].

33. *Id.*

34. *Cf.* HUMAN RIGHTS WATCH, “KILL THE CHICKEN TO SCARE THE MONKEYS”: SUPPRESSION OF FREE EXPRESSION AND ASSEMBLY IN SINGAPORE (2017).

35. Carl Minzner, *Countries at the Crossroads 2011: China*, FREEDOM HOUSE (2011), https://freedomhouse.org/sites/default/files/inline_images/ChinaFINAL.pdf [https://perma.cc/5TWZ-ZTM8].

36. UN Human Rights Council, *Independence and Impartiality of the Judiciary, Jurors and Assessors, and the Independence of Lawyers*, U.N. Doc. A/HRC/35/L.20 (June 19, 2017).

37. HUMAN RIGHTS HOUSE NETWORK, HUMAN RIGHTS LAWYERS AT RISK: MAKING THE CASE FOR THE PROTECTION OF LEGAL PROFESSIONALS IN AZERBAIJAN, BELARUS, MOLDOVA, RUSSIA, AND UKRAINE (2015).

continent, in Northern Ireland.³⁸ Egypt and Turkey have played leading roles in the Middle East,³⁹ as have Cuba and Venezuela in the Americas.⁴⁰ Vietnam, Cambodia, and Myanmar have likewise done their part in Asia.⁴¹ Restrictions, if not targeting, on US lawyers at Guantanamo Bay have also been a concern.⁴² Among other things, the UN Rapporteur on the Independence of Lawyers and Judges has urged bar associations to take up the cause.⁴³ Accordingly, the New York City Bar Association established a Task Force on the Independence of Lawyers and Judges, and has hosted panels on the persecution of lawyers in many of the states previously mentioned.⁴⁴ Yet for scale and severity, China remains the leader in exactly one aspect of the trend the Human Rights Council condemned – threats, intimidation, and interference targeting lawyers. Understanding China’s actions is important in itself, and in understanding the broader trend.

At the same time, a different type of horizontal expansion has been taking place within China. Lawyers subject to targeting by a given regime fall along a spectrum. At one end are attorneys who represent clients who are perceived as a threat. In China, these “rights,” “impact,” or “*weiquan*” lawyers often defend individuals associated with groups that have shown a capacity to organize, such as Falun Gong, people

38. HUMAN RIGHTS FIRST, A TROUBLING TURN: THE VILIFICATION OF HUMAN RIGHTS LAWYERS IN NORTHERN IRELAND (2017), <http://www.humanrightsfirst.org/sites/default/files/A-Troubling-Turn.pdf> [https://perma.cc/LP22-8929].

39. U.S. DEP’T OF STATE BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, EGYPT 2017 HUMAN RIGHTS REPORT (2017), <https://www.state.gov/documents/organization/277483.pdf>; U.S. DEP’T OF STATE BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, TURKEY 2017 HUMAN RIGHTS REPORT (2017), <https://www.state.gov/documents/organization/277471.pdf> [https://perma.cc/8427-3983].

40. *Cuba: Events of 2017*, HUMAN RIGHTS WATCH (Jan. 2018), <https://www.hrw.org/world-report/2018/country-chapters/cuba>; AMNESTY INT’L, AMNESTY INTERNATIONAL REPORT 2017/18 393 (2018), <https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/> [https://perma.cc/CL73-A9KJ].

41. *No Country for Human Rights Activists: Assaults on Bloggers and Democracy Campaigners in Vietnam*, HUMAN RIGHTS WATCH (June 18, 2017), <https://www.hrw.org/report/2017/06/18/no-country-human-rights-activists/assaults-bloggers-and-democracy-campaigners> [https://perma.cc/2HE8-QE46]; U.S. DEP’T OF STATE BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, CAMBODIA 2017 HUMAN RIGHTS REPORT (2018), <https://www.state.gov/documents/organization/277315.pdf> [https://perma.cc/YA2J-224X]; INT’L COMM’N. OF JURISTS, ACHIEVING JUSTICE FOR GROSS HUMAN RIGHTS VIOLATIONS IN MYANMAR: BASELINE STUDY 7 (Jan. 2018).

42. MARK DENBEAUX & JONATHAN HAFETZ, *THE GUANTANAMO LAWYERS* 109 (2009).

43. UN Human Rights Council, *supra* note 36, at 15.

44. *Task Force for the Independence of Lawyers and Judges*, N.Y. CITY BAR ASS’N, <http://www.nycbar.org/member-and-career-services/committees/independence-of-lawyers-and-judges-task-force-for-the> (last visited May 27, 2018) [https://perma.cc/P2WD-CZR4].

who simply have grievances with government decisions, policies, or officials, or attorneys who have represented such clients and themselves gotten into trouble.⁴⁵ Next come criminal defense lawyers, whose clients may not be “political,” but who by definition have run afoul of the government.⁴⁶ After these appear tort lawyers who may seek civil remedies from either State-Owned Enterprises, the government, or officials, as was true in lawsuits against corrupt bureaucrats responsible for tainted milk.⁴⁷ Toward the other end of the spectrum are lawyers who otherwise engage in safe business or corporate practice, but who may take on a potentially controversial pro bono case. Hovering over all these categories are the law firms that employ attorneys, and which themselves become vulnerable to retaliation, even shutdown, as a result of an individual lawyer’s work.⁴⁸ Rights or impact lawyers present the greatest perceived “threat” and experience consistent harassment first.⁴⁹ How far along the spectrum the persecution extends offers one measure of how authoritarian a regime has grown. As this Symposium suggests, China under Xi has proceeded far along that path.

China’s assault on lawyers of all types also operates vertically. In any country, such attacks could emanate in a more or less uncoordinated fashion from local officials. Or they could reflect a policy instituted by regional or provincial governments. A campaign against lawyers and other rights advocates, finally, could come from the top. In the United States, police violence against people of color tends to be reported as perpetrated by local law enforcement. Then again, President Trump’s statements on law, order, and race fairly raise the question of how much responsibility Washington, D.C. bears for the phenomenon. In China, the responsibility of the Xi administration

45. Fu Hualing & Richard Cullen, *Climbing the Weiquan Ladder: A Radicalizing Process for Rights-Protection Lawyers*, 40 *The China Quarterly* 40 (2011), <https://www.law.upenn.edu/live/files/2311-climbing-the-weiquan-ladder> [<https://perma.cc/6H9A-4KVC>].

46. Terry Halliday, *Why China Fears Lawyers*, WALL STREET J. (June 28, 2017), http://www.americanbarfoundation.org/uploads/cms/documents/why_china_fears_lawyers_wjs_asia_28_june_2017.pdf [<https://perma.cc/Q7KS-BGFB>].

47. Lauren M. Katz, *Class Action with Chinese Characteristics: The Role of Procedural Due Process in the Sanlu Milk Scandal*, 2 *Tsinghua China L. Rev.* 419, 447-48.

48. *See, Disbarment, Suspension and Harassment: Outcast Lawyers in China*, JURIST (Mar. 30, 2018), <http://www.jurist.org/datetime/2018/03/Patrick-Poon-outcast-lawyers-in-china.php> [<https://perma.cc/V2PZ-LL9X>].

49. For a comprehensive overview, see Pils, *supra* note 16; *see also* Liu & Halliday, *CRIMINAL DEFENSE IN CHINA*, *supra* note 17.

appears increasingly clear cut. Previously, Zhongnanhai⁵⁰ tended to wash its hands of incidents targeting lawyers, at most claiming that any such actions were the work of local officials. The Central Government relied on exactly this excuse in the high-profile case of Chen Guancheng, the noted blind “barefoot” lawyer.⁵¹ Since Xi assumed the leadership, however, the top has played a more prominent role. The Chinese Communist Party has expressly condemned the type of legal advocacy that *weiquan* lawyers represent.⁵² The hundreds of arrests that began on July 9, 2015 – the beginning of the “709” crackdown⁵³ – suggest nothing if not a concerted campaign initiated and approved by the very highest levels of government.⁵⁴

The multiplier effect, the global phenomenon, the widening scope of persecution in China, the direction of the Central Government authorities. The contributions to this Symposium illuminate each of these elements. Together they also pose, but also help address, the substantial challenge that the ongoing crackdown on lawyers in China present.

II. DEFENDING THE DEFENDERS

What can be done against this onslaught, especially by those who enjoy the luxury of engaging in unfettered legal advocacy abroad?

What makes lawyers vulnerable to attack in theory should also provide them a basis for defense. As a trained, high profile elite, they are more than most equipped with skills, associations, and connections to safeguard their own interests. In a globalized world, additional assistance should come from lawyers around the world in a position to advocate for their counterparts under assault in authoritarian regimes.

50. Located next to Beijing’s Imperial Forbidden City, Zhongnanhai serves as the headquarters compound for the Communist Party of China and the Chinese central government.

51. Minky Worden, *Chinese Media Breaks Silence on Blind Activist Chen Guangcheng*, THE DAILY BEAST (May 3, 2012), <https://www.thedailybeast.com/chinese-media-breaks-silence-on-blind-activist-chen-guangcheng> [<https://perma.cc/PUU8-P4UM>].

52. *Document 9: A ChinaFile Translation - How Much Is a Hardline Party Directive Shaping China’s Current Political Climate?*, CHINAFILE (Nov. 8, 2013), <http://www.chinafile.com/document-9-chinafile-translation>.

53. *Statement of New York City Bar Association Marking “709 Crackdown” on Chinese Human Rights Defenders*, N.Y. CITY BAR ASS’N (Jul. 8, 2017), http://www.nycbar.org/media-listing/media/detail/statement-of-new-york-city-bar-association-marking-709-crackdown-on-chinese-human-rights-defenders#_ftn3 [<https://perma.cc/KH8C-9D9Z>] [hereinafter *Statement of NYC Bar Marking 709 Crackdown*].

54. LEITNER CENTER FOR INTERNATIONAL LAW AND JUSTICE & THE COMMITTEE TO SUPPORT CHINESE LAWYERS, *supra* note 14, at 15.

No less important, lawyers are also uniquely well-positioned to make sure that the law itself protects their position. Beyond the borders of an authoritarian state, that should also mean that international law offers powerful tools for lawyers anywhere to protect themselves and their relationships with their clients.

The reality falls short. The contributions to this Issue in various ways demonstrate how an authoritarian regime such as China, determined to brook no challenges, can undermine the built-in advantages of a domestic legal profession. More surprising is the international response. The truth is that here, persecuted lawyers in China and elsewhere face a double bind. First, international law addressing the role of lawyers remains inadequate. Either it is binding and too general. Or it is detailed and merely hortatory. Second, lawyers abroad show surprisingly little concern for their counterparts facing persecution in another country. In this, lawyers generally undervalue their mutual interests. With respect to China, they may well overvalue the rewards of doing business with a regime yet to be fully committed to the rule of law.

To all these factors this Symposium therefore presents a commensurate twofold challenge. Lawyers outside authoritarian states need to know about the international standards that apply to their profession, and work to strengthen them. Meantime, they also need to actually employ those standards on behalf of their counterparts who need them most, both in China and elsewhere.

Begin with the law. Embattled lawyers, in China and elsewhere, who look to international standards, soon face a dilemma. The problem goes beyond the usual difficulties in relying on treaties or custom. International human rights law in particular suffers from underenforcement. In states such as China, it can also be met with pushback, one reason holding the regime to its own laws must always be part of any advocacy strategy. Yet to the extent that international law matters, fully half the dilemma for lawyers is that virtually no binding standards deal with their distinct role.⁵⁵ This is not to say that what does exist is irrelevant, only that at present binding standards do not go far enough.

55. The Basic Principles on the Role of Lawyers are not legally binding. See *The Basic Principles on the Role of Lawyers*, LAWYERS FOR LAWYERS, <http://www.advocatenvo.oradvocaten.nl/basic-principles/> (last visited June 14, 2018) [<https://perma.cc/VUW4-KQJF>].

Relevant binding law falls short in at least two ways. First, much of it relies on state consent, either active, through agreements,⁵⁶ or, and more narrowly, passive, through custom. China, like the United States, has failed to accede to major human rights treaties. Most relevant here is the International Covenant on Civil and Political Rights (“ICCPR”), which China has signed but not ratified.⁵⁷ Nothing in the ICCPR speaks to the role of lawyers directly. Article 9, however, does guarantee an array of due process rights, including not to be subject to arbitrary arrest and detention; to be informed of the reasons for an arrest or charge; to be brought before a judge; and to have a trial.⁵⁸ As a signatory, China may not take steps to undermine the object and purpose of the ICCPR’s provisions.⁵⁹ Such a tack, however, remains attenuated.

By contrast, China has actually assumed other binding standards, but in many ways these deal with the horrific symptoms of the assault on legal representation rather than the problem itself. Critical in this regard is the Convention Against Torture (“CAT”), which China has ratified.⁶⁰ CAT absolutely prohibits torture and cruel, inhuman, and degrading treatment, among the most popular devices the regime uses to silence meddlesome attorneys.⁶¹ The UN Rapporteur on Torture noted exactly this problem in a recent report.⁶² Likewise, China is also prohibited from other measures commonly employed in its crackdowns against lawyers, such as prolonged arbitrary detention, either as a

56. *Treaties and International Agreements*, BERKELEY LAW, <https://www.law.berkeley.edu/library/dynamic/guide.php?id=65> (last visited June 14, 2018); see also, *Customary international humanitarian law: questions & answers*, INTERNATIONAL COMMITTEE OF THE RED CROSS (Aug. 15, 2005), <https://www.icrc.org/eng/resources/documents/misc/customary-law-q-and-a-150805.htm#a5> [<https://perma.cc/MR5H-4QFS>].

57. G.A. Res. 2200A (XXI), Int’l Covenant on Civ. and Pol. Rts. (Dec. 16, 1966); U.N. Office of the High Comm’r on Hum. Rts., *Status of Ratification Interactive Dashboard*, <http://indicators.ohchr.org/> (last visited May 31, 2018) [<https://perma.cc/N6KE-8NFG>].

58. G.A. Res. 2200A (XXI), Int’l Covenant on Civ. and Pol. Rts. art. 9, (Dec. 16, 1966).

59. Vienna Convention on the Law of Treaties art. 18, May 23, 1969, 1155 U.N.T.S. 331.

60. G.A. Res. 39/46, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Dec. 10, 1984); U.N. Office of the High Comm’r on Hum. Rts., *supra* note 57.

61. U.N. Office of the High Comm’r for Hum. Rt., *Committee against Torture: Concluding observations on the fifth periodic report of China*, U.N. Doc. CAT/C/CHN/CO/5 (Feb. 3, 2016), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fCHN%2fCO%2f5&Lang=en (stipulating that torture is “deeply entrenched” in the Chinese criminal justice system) [<https://perma.cc/G9PU-D4MJ>].

62. Nils Melzer (U.N. Special Rapporteur), *Rep. of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, U.N. Doc. A/HRC/37/50 (Feb. 26, 2018).

matter of customary international law or *jus cogens*.⁶³ Holding the regime accountable for these violations remains vital. Doing so, however, does not deal with the underlying problem of attacking attorneys for providing legal representation to clients the government perceives as troublesome.

What does is the UN Basic Principles on the Role of Lawyers (“UN Basic Principles”).⁶⁴ This instrument embodies the other half of international law’s dilemma. On one hand, the UN Basic Principles address the challenges facing Chinese rights lawyers with almost prophetic detail. Article 1 provides that: “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.”⁶⁵ Article 18 importantly states that, “Lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.”⁶⁶ The UN Basic Principles also go beyond the courthouse and stationhouse to declare, “Lawyers . . . shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations”⁶⁷ Most directly on point, however, must be Article 16, which protects lawyers in performing their duties, regardless of their clients:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.⁶⁸

Unfortunately, none of this is formally binding. Rather, the UN Basic Principles were effectively adopted by the UN General

63. RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 792 (AM. LAW INST. 1986).

64. Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders, *Basic Principles on the Role of Lawyers*, U.N. Doc A/CONF.144/28/Rev.1 (1990).

65. *Id.* ¶ 1.

66. *Id.* ¶ 18.

67. *Id.* ¶ 23.

68. *Id.* ¶ 16.

Assembly. As such, they are classic “soft law,”⁶⁹ much like the iconic Universal Declaration of Human Rights (“UDHR”).⁷⁰ They are “legal” because of their provenance and, frankly, their look. A document issuing from the UN General Assembly, festooned with the UN insignia, looks nothing if not official. It also resembles a treaty, or better, part of a constitutional bill of rights. Yet the UN Basic Principles are also technically “soft.” The UN General Assembly, of course, has no power to bind the Member States except with regard to the operation of the organization.⁷¹ As such the document is technically aspirational.

But not ineffective. As with the UDHR itself, the UN Basic Principles can be as influential as even fully ratified treaties. Start from the premise that virtually no binding international human rights standard, in contrast to domestic law, is ordinarily backed by the potential use of coercive force. Rather, any influence derives from a state’s desire to maintain a good reputation, to be seen as a credible member of the international community, and as an actor that will live up to its commitments, among other things. That a treaty is binding simply raises these stakes. Yet all of these dynamics also pertain to “soft law” standards as well. To take one example, the nongovernmental organization (“NGO” or “NGOs”) now known as Human Rights First, successfully deployed the UN Basic Principles against the UK government for restrictions on access to lawyers in Northern Ireland.⁷² Beyond this practical influence, UN General Assembly resolutions in particular can also have a formal impact. In particular, they can provide evidence of the two principal bases for binding customary international law. The UN Basic Principles, for example, first provide evidence of general practice given their adoption with no dissenting vote.⁷³ They further provide evidence of *opinio juris* insofar as they provide a basis for a sense of states’ legal obligation to respect the special rights of lawyers.⁷⁴ All of which is to say that the

69. Timothy Meyer, *Soft Law as Delegation*, 32 *FORDHAM INT’L L.J.* 888 (2009) (describing that “soft legal obligations are those international obligations that, while not legally binding themselves, are created with the expectation that they will be given some indirect legal effect through related binding obligations under either international or domestic law”).

70. G.A. Res. 217 (III) A, Universal Declaration of Human Rights, U.N. Doc. A/810, at 71 (Dec. 10, 1948).

71. U.N. Charter art. 10.

72. Martin Flaherty, *Interrogation, Legal Advice, and Human Rights in Northern Ireland*, 27 *COLUM. HUM. RTS. L. REV.* 1 (1995).

73. Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders, *supra* note 64.

74. *Id.*

UN Basic Principles would undoubtedly have a greater impact if codified into a treaty, as the UDHR was rendered into the two principal Covenants. Yet until that happens, the more they are used, the more effective they will be.

Conversely, even the most precise legal obligations mean little unless they are employed. As US Supreme Court Justice Robert H. Jackson said more generally, “there was worldly wisdom in the maxim . . . that the tools belong to the [person] who can use them.”⁷⁵ One would think that few groups are better equipped for the use of legal tools than lawyers. So it goes – at least in China itself. Eva Pils’s *China’s Human Rights Lawyers*,⁷⁶ Sida Liu and Terrance Halliday’s *Criminal Defense in China*,⁷⁷ and not least this Symposium, all demonstrate the almost incomprehensible courage, skill, and imagination of China’s rights lawyers and their associates in marshaling China’s own laws – from the *xianfa* on down – not only to defend their clients, but also their profession. That they can do so much with so few materials in a hostile system should teach and inspire lawyers everywhere.

So far that has yet to happen. No foreign law firm doing business in China has issued any public statement, nor apparently has made any private representation, condemning the ongoing crackdown on rights and other lawyers. The same apparently goes for any practicing attorney, prominent or otherwise. To the contrary, consider the experience of several advocates involved in this Symposium, among them this author. Several years ago they were able to secure a meeting with leading partners of major New York corporate firms to discuss the plight of attorneys in China.⁷⁸ Each one expressed genuine concern. Yet none were prepared to take any direct steps or to enlist their firms. Contrast this reaction to the response of journalists. Media outlets around the world typically not just cover, but also take up the cause, of fellow journalists facing persecution in war zones or authoritarian

75. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 634, 654 (1951) (Jackson, J., concurring).

76. PILS, *supra* note 16.

77. LIU & HALLIDAY, *supra* note 17.

78. *Cf. The Dangers of Rights Lawyering in China and the Role of American Law Firms*, N. Y. CITY BAR ASS’N (Feb. 7, 2013), <http://www.nycbar.org/media-listing/media/detail/the-dangers-of-rights-lawyering-in-china-and-the-role-of-american-law-firms-a-conversation-with-chen-guangcheng-and-professor-jerome-cohen-presentation-of-city-bar-honorary-membership-to-chen-guangcheng> [<https://perma.cc/TP46-U8V9>].

regimes.⁷⁹ Prominent NGOs comprised of reporters and public supporters, such as the Committee to Protect Journalists, lend a powerful voice in advocating on behalf of their compatriots.⁸⁰

The comparative silence does not speak well of the legal profession. It also calls for an explanation. The general unpopularity of lawyers may have something to do with it. Lawyers are a hard sell to potential donors and outside supporters. As the saying goes, no one likes a lawyer until they need one.⁸¹ But the real difficulties lie with the profession itself. Internally there is the problem of segmentation. Specialization differentiates among counsel who practices securities, intellectual property, international trade, criminal defense, medical malpractice, mass torts, civil rights, tax, and impact litigation. A more general divide distinguishes between commercial lawyers and a usually much smaller group of public interest lawyers. Too often various segments of the profession conclude that assaults on the independence of another – in particular rights lawyers – does not affect them. When for example the noted Belfast human rights lawyer Patrick Finucane was gunned down by paramilitaries in circumstances that suggested government collusion, the Law Society of Northern Ireland, of which only a handful of around 1,500 solicitors represented “political” detainees, remained silent.⁸² A similar situation now exists in China. Of China’s over 250,000 lawyers, at most only a few hundred engage in “provocative” rights work.⁸³ If the many feel unaffected by the plight of the few within the nation, the many outside can feel they have even less at stake. This behavior stands in stark contrast to journalism, when attacks on the freedom of any one member of the press is readily seen as an attack on freedom of the press *per se*.⁸⁴

79. See generally COMMITTEE TO PROTECT JOURNALISTS, <https://cpj.org> [<https://perma.cc/S7M6-UBEL>] (last visited June 1, 2018).

80. See *id.*

81. See, e.g., CHRISTOPHER BUCKLEY, *BOOMSDAY 66* (1st ed. New York: Twelve/Warner Books 2007) https://books.google.com/books?id=F52w3BeNP-4C&pg=PT52&lpg=PT52&dq=no+one+likes+a+lawyer+until+they+need+one&source=bl&ots=yGX0iHKP30&sig=90fbrmijk11C-eLn_0wctq6CWQE&hl=es419&sa=X&ved=0ahUKEwi55uiAydLbAhUrzkKHczdDIAQ6AEIbjAN#v=onepage&q=no%20one%20likes%20a%20lawyer%20until%20they%20need%20one&f=false [<https://perma.cc/35QH-XP35>].

82. LAWYERS COMMITTEE FOR HUMAN RIGHTS, *HUMAN RIGHTS AND LEGAL DEFENSE IN NORTHERN IRELAND* 61 (1993).

83. See MINZNER, *END OF AN ERA*, *supra* note 18, at 76-78, 94, 96.

84. See Agence France-Presse, *Donald Trump’s attacks on journalists one of the ‘major threats to press freedom’ along with Russia and China*, *SOUTH CHINA MORNING POST* (Apr. 25, 2018), <http://www.scmp.com/news/china/policies-politics/article/2143274/donald-trumps-attacks-journalists-one-major-threats> [<https://perma.cc/2UF5-VU3R>].

An even greater challenge issues externally. It is, in a word, money. The profits derived from doing business in what will soon be the world's largest economy come with their own perceived shackles. Foreign attorneys and firms in China can be all but petrified that any advocacy on behalf of embattled Chinese counterparts can lead to loss of clients, connections, and outright banishment. The most common concern cited at the New York meeting of leading partners came down to the fear that the Chinese government would revoke their firm's license to maintain offices in China.⁸⁵ Given the government's continuing and brutal crackdown on native attorneys, it would be hard to dismiss these fears as fanciful. Then again, it is impossible to know what types of foreign representations might be permitted, let alone what might make a difference, if nothing is tried at all. Joint, united, or collective action, for example, might well be worth a try since it would be that much harder to banish several major firms rather than one. As it is, foreign firms and attorneys engage in a practice that might best be described as a preemptive cringe.

Yet amidst this indifference are sources of hope. One springs from the very type of civil society organizations that China now discourages, but are free elsewhere. Where foreign lawyers and firms feel rightly or wrongly too exposed individually, they can address the issue through NGOs and bar associations. Through these organizations, the legal profession can and should still work to raise awareness about the situation of Chinese rights lawyers, work to strengthen relevant standards, and advocate on their behalf.

A number of small NGOs devoted to the cause already exist and deserve to be better known. In New York, the Committee to Support Chinese Lawyers, consisting of practitioners and legal academics, seeks to make the topic better known in the City's influential legal community, issue reports, and host panels and meetings.⁸⁶ In Hong Kong, the China Human Rights Lawyers Concern Group leverages its proximity to the mainland to engage in an array of impressive work on behalf of its counterparts across the border.⁸⁷ As noted, there is no

85. Don Durfee, *Insight: China's foreign lawyers argue case from the gallery*, REUTERS (Oct. 3, 2011), <https://www.reuters.com/article/us-china-law/insight-chinas-foreign-lawyers-argue-case-from-the-gallery-idUSTRE79307T20111004> [<https://perma.cc/7FJ7-M5Q7>].

86. COMMITTEE TO SUPPORT CHINESE LAWYERS, <http://csclawyers.org/> (last visited June 1, 2018) [<https://perma.cc/YVL3-SMEA>].

87. CHINA HUMAN RIGHTS LAWYERS CONCERN GROUP, <http://www.chrlawyers.hk/en> (last visited June 1, 2018) [<https://perma.cc/6YTZ-P57D>].

global lawyers' NGO that rivals the Committee to Protect Journalists in profile or funding.⁸⁸ That said, the International Association of People's Lawyers serves as an invaluable clearinghouse for information about lawyers under threat.⁸⁹ So too does the Dublin-based, Frontline Defenders, which supports human rights advocates generally.⁹⁰

As tentative as individual practitioners and firms have been, united action through bar associations holds special promise. The New York City Bar Association, consisting of over 24,000 mainly private law attorneys, has been especially active. On behalf of Chinese counterparts facing persecution, the New York City Bar Association has, among other things, sent missions and issued reports⁹¹ and advocacy letters,⁹² held panels,⁹³ raised human rights issues with visiting Chinese delegations,⁹⁴ and issued a statement of principles for firms doing business in China that includes concern for human rights and human rights attorneys⁹⁵ and granted an honorary membership to the "barefoot" exiled lawyer, Chen Guangcheng.⁹⁶ More recently it has set up a Task Force on the Independence of Lawyers and Judges, which also raised the plight of China's rights lawyers personally with Diego Garcia-Sayan, the UN Special Rapporteur on the Independence of

88. See COMMITTEE TO PROTECT JOURNALISTS, *supra* note 80.

89. See INTERNATIONAL ASSOCIATION OF PEOPLE'S LAWYERS, <http://www.iapl.net> (last visited June 1, 2018) [<https://perma.cc/SV9K-WD2Q>].

90. See FRONT LINE DEFENDERS, <https://frontlinedefenders.atavist.com> (last visited June 1, 2018) [<https://perma.cc/9CPR-GM7G>].

91. Report of The Mission to China of The Association of the Bar of the City of New York, N. Y. CITY BAR ASS'N (May 2010), <http://www.nycbar.org/pdf/report/uploads/20071953-ReportoftheMissiontoChinaDecember2009.pdf> [<https://perma.cc/6H3T-56VT>].

92. See Letter from Debra Raskin, Former President, New York City Bar Association, to His Excellency Mr. Xi Jinping, President, People's Republic of China (July 28, 2015) (on file with New York City Bar Association); see also, Letter from Debra Raskin, Former President, New York City Bar Association, to Minister Guo Shengkun, Minister of Public Security, People's Republic of China (Apr. 3, 2015) (on file with New York City Bar Association).

93. N. Y. CITY BAR ASS'N, *supra* note 79.

94. See generally *Asian Affairs Committee*, N. Y. CITY BAR ASS'N, <http://www.nycbar.org/member-and-career-services/committees/asian-affairs-committee> (last visited July 4, 2018) [<https://perma.cc/K4M3-6PVK>].

95. *Lawyers' Statement of Principles Regarding China*, N. Y. CITY BAR ASS'N (Sept. 2011), <https://www2.nycbar.org/pdf/report/uploads/20072195-LawyersStatementofPrinciplesRegardingChina.pdf> [<https://perma.cc/827D-CPNC>].

96. *Honorary Membership*, N. Y. CITY BAR ASS'N, <http://www.nycbar.org/about/awards-and-special-lectures/honorary-membership> (last visited July 4, 2018) [<https://perma.cc/VN4W-GKZR>].

Judges and Lawyers.⁹⁷ Bar Associations elsewhere have also been active, including the American Bar Association, the International Bar Association, and national groups such as the Law Society of England and Wales.⁹⁸ These efforts are all the more critical given that bar associations in China itself are state-run.

Another locus for foreign legal concern is law schools. As in the outside world, law school administrators especially can be easily dazzled by the prospect of the Chinese market, whether the revenue derived from LL.M. and JD students coming from China, to the donations offered from alumni practicing there. But many institutions do more. In New York alone, the Leitner Center for International Law and Justice at Fordham Law School's Asia Law and Justice Program engages in a range of human rights initiatives.⁹⁹ Likewise, NYU Law School's United States-Asia Law Institute, founded by Jerome Cohen, among other things provides platforms for Chinese legal experts, including lawyers who have faced persecution.¹⁰⁰ Fordham Law School, NYU Law School, and Columbia Law School have also have granted visiting scholar positions to Chinese human rights advocates who either cannot return home or who simply need a respite from the rigors of their work.¹⁰¹ That said, before legal reform or advocacy must come awareness, information, and education. The most basic role that law schools can play is simply informing lawyers, scholars, and students about the current situation faced by rights advocates in China. Exactly this is what the new book launched at this symposium, Carl Minzner's *The End of an Era*, does.¹⁰² Exactly this is what the contributions to this Symposium Issue of the *Fordham International Law Journal* do as well.

97. *Statement of NYC Bar Marking 709 Crackdown*, *supra* note 53.

98. *Compare* AMERICAN BAR ASS'N., <https://www.americanbar.org/aba.html> (last visited June 1, 2018) [<https://perma.cc/G5BG-HMVT>] *with* INTERNATIONAL BAR ASS'N., <https://www.ibanet.org/> (last visited June 1, 2018) [<https://perma.cc/G8QB-Q9JB>] *with* THE LAW SOCIETY, <http://www.lawsociety.org.uk/> [<https://perma.cc/M2BV-YJ38>] (last visited June 1, 2018).

99. *See generally* *Asia Law and Justice Program*, LEITNER CTR. FOR INT'L LAW AND JUST., <http://www.leitnercenter.org/programs/ALJC/> [<https://perma.cc/ZW4S-JQWL>] (last visited June 1, 2018).

100. *See generally*, *U.S.-Asia Law Institute*, N.Y.U., <https://usali.org/> (last visited June 1, 2018) [<https://perma.cc/3FAN-78LR>].

101. *See, e.g.*, *Leitner Human Rights Speaker Series: Public Interest Lawyers in China: Firsthand Perspectives*, LEITNER CTR. FOR INT'L LAW AND JUST., <http://www.leitnercenter.org/events/Leitner-Human-Rights-Speaker-Series-Public-Interest-Lawyers-in-China-Firsthand-Perspectives/> [<https://perma.cc/FKG4-6FT4>] (last visited June 1, 2018).

102. MINZNER *supra* note 18.

III. CONCLUSION

Perhaps most importantly, this symposium does one thing more. As Carl Minzner has suggested, the path of reform in China is ultimately up to the Chinese themselves.¹⁰³ All that outsiders can do at best is put a feather in one or another balance in the scale. By offering expert, current, and in-depth analysis on the role of China's rights lawyers, this Issue necessarily helps in that task. What matters more, both for China and the rest of the world, is knowing of the courage, resolve, and zeal of those legal advocates inside China who are still working for the rule of law and fundamental rights. If this Symposium does nothing more than highlight this – and it does much more – it will have made a signal contribution.

103. *Id.* at 195.