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GOING BAREFOOT IN THE MIDDLE KINGDOM: A PRELIMINARY STUDY OF THE STRATEGIC CHOICES OF NON-LICENSED WEIQUAN LAWYERS IN MODERN CHINA

Tin Muk Daisy Cheung*

This article explores the phenomenon of unlicensed, “barefoot” weiquan lawyers in China. Although these unorthodox lawyers play an integral role in the protection of rights in China’s legal system today, surprisingly little academic literature has been devoted to their study, and knowledge of what they are like and how they operate is limited. In light of this, eleven unlicensed weiquan lawyers from various parts of mainland China were selected for in-depth interviews. I discovered that despite the separation of the interviewees from the state, they were no more aggressive or radical than their licensed counterparts. Although they often employed extra-judicial methods in addition to legal methods, the interviewees emphasized the need to stay within the framework of the law. In addition, contrary to the expectation that unlicensed weiquan lawyers are comparatively lacking in legal competence, several interviewees often employed sophisticated and technical legal arguments when advocating in court. Based on these observations, this article concludes with preliminary comments on the role of barefoot weiquan lawyers in China’s legal system and future developments for the profession.

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I. INTRODUCTION

This article explores the phenomenon of the “barefoot” *weiquan* lawyer in China. Although these unorthodox lawyers play an integral role in the protection of rights in China’s current legal system, surprisingly little academic literature has been devoted to their study, and our knowledge of what they are like and how they operate is limited. The rise of the barefoot *weiquan* lawyer profession takes place within the wider context of China’s *weiquan* movement, also known as the movement for the protection of human rights.¹ Academic literature has documented the more well-known actors of the movement – licensed *weiquan* lawyers – but little is known of the role that barefoot *weiquan* lawyers play. In the face of the crushingly superior forces of the party-state and their lack of formal professional training, the way these barefoot *weiquan* lawyers engage with the state and the strategies they employ are of particular interest.

Based on the literature devoted to licensed *weiquan* lawyers and the characteristics of barefoot *weiquan* lawyers that differentiate them from their licensed counterparts, I formed predictions regarding two aspects of barefoot *weiquan* lawyers’ strategic choices. Because of their relative separation from the state, I predicted that they would use more aggressive and radical (i.e. less court-based) methods to defend their clients’ rights than licensed *weiquan* lawyers. I further predicted that because barefoot *weiquan* lawyers do not have to take the bar examination and are less likely to have undergone formal legal training, they would rely more on moral and factual arguments, as opposed to technical legal ones, in their advocacy. The latter prediction is in line with the literature suggesting that barefoot *weiquan* lawyers are not as well-versed in the law,² and that they often choose to engage with the law only out of necessity.³

Due to the scarcity of literature on barefoot *weiquan* lawyers, it was necessary to gather information directly from them in order to test these predictions. I conducted in-depth interviews with eleven barefoot

1. The term “*weiquan*” literally means “to protect rights” (*weihu quanli*).

2. Xing Ying, *Barefoot Lawyers and Rural Conflicts*, in RECLAIMING CHINESE SOCIETY: THE NEW SOCIAL ACTIVISM 64, 79 (You-tien Hsing & Ching Kwan Lee eds., 2010).

3. JONATHAN BENNEY, DEFENDING RIGHTS IN CONTEMPORARY CHINA 132-33 (2013).

weiquan lawyers from diverse backgrounds and various parts of mainland China. My findings and conclusions are based on these interviews.

In Section II, I will briefly outline the context of China's *weiquan* movement. In Section III, I will introduce two types of *weiquan* lawyers, namely licensed *weiquan* lawyers and barefoot *weiquan* lawyers. In section IV, I will briefly discuss the methodology of this article, and then move on to analyze my findings in relation to my initial predictions. I discovered that while most of the interviewees used a combination of legal and extra-judicial methods, they were not more aggressive or radical than their licensed counterparts. Many of them used court-based approaches and only resorted to extra-judicial methods when court-based methods were ineffective. Additionally, and contrary to the prediction that they would be comparatively deficient in legal competence, several of the barefoot *weiquan* lawyers interviewed employed sophisticated and technical legal arguments when advocating in court.

Based on these observations, I conclude in Section VI with a few preliminary comments about the role of barefoot *weiquan* lawyers in China's legal system and future developments for this profession. Though there is a need for more research, I suggest that barefoot *weiquan* lawyers play an important role in two ways: (i) facilitating access to justice; and (ii) advocating without reservation for their clients and pushing for impartiality and fairness on the part of the courts. While the profession is likely to keep on thriving, obstacles from the state may pose challenges for barefoot *weiquan* lawyers in some parts of China.

II. CHINA'S WEIQUAN MOVEMENT

A proper discussion of the phenomenon of barefoot *weiquan* lawyers must begin with the context of China's *weiquan* movement, in which barefoot *weiquan* lawyers play an important role. The *weiquan* movement eludes exact definition,⁴ but it essentially describes the group of people in China (including lawyers, intellectuals, and other citizens) who attempt to protect the rights and interests of citizens using the legal system and other forms of activism. Currently, the Chinese government is forcefully repressing the *weiquan* movement. In order to better understand the Chinese government's harsh repression of the *weiquan* movement, it is useful to consider how this movement initially came about.

The development of a strong *weiquan* movement in an authoritarian one-party state is in itself a remarkable feat that must be attributed to the legal reforms that followed the economic and political reforms introduced by Deng Xiaoping. In the late 1970s, Deng introduced a series of economic reforms designed to improve the Chinese people's standard of living, and in so doing address the government's legitimacy crisis. Deng understood the importance of the legal system for the success of

4. See BENNEY, *supra* note 4, ch. 2. While this may be the case, however, a precise definition of both the term "*weiquan*" and the *weiquan* movement are beyond the scope of this article.

these reforms, since a legal framework was necessary for the creation of a market economy, which would allow China to enter the international economy.⁵ As a result, Deng implemented the open-door economic policy, which led to extensive legal and significant political reforms. This reform process relied, to a degree, on the political ideals associated with democracy and the rule of law.⁶

Although the Tiananmen massacre of 1989 brought the first wave of reforms to an abrupt and untimely end, this did not lead to the end of the rule of law. After a short period, change was brought back in the form of further economic reforms Deng demanded during his tour to southern China in early 1992. Legal reform this time around was mainly focused on the market and on providing social and economic rights. The government also created a larger range of private rights, protecting individual freedom and property, along with an increase in administrative rights brought about by administrative reform in the 1990s. The government still advocated rule of law, but without a political dimension.⁷

Parallel to this explosive growth in legislation and legal institution-building, civil society expanded, often in the form of associations and non-governmental organizations (“NGOs”) that supported vulnerable groups in society. These groups gradually began to demand the fulfillment of remedies that the law had promised. As the gap between expectations and reality increased, so did the demand for legal services.⁸ This is the context in which the *weiquan* movement developed and flourished.

At first, the government tolerated litigation on behalf of vulnerable groups because the lawyers involved were channeling political and sensitive matters into a legal context, which was beneficial for social stability. However, as plaintiffs became more aggressive and civil society groups became more active over the next decade, the government became increasingly alarmed and adopted a more conservative position.⁹ Starting in 2003, the government placed a heavy emphasis on stability and harmony, with a heightened sensitivity to sources of social unrest. In this new, repressive environment, stability became an end in itself.¹⁰

Due to this shift in position, the Chinese government currently represses the *weiquan* movement with vigor. Over the past few years, the government has increasingly perceived *weiquan* lawyers as a subversive group, and has employed a range of methods to persecute them.¹¹ These

5. See RANDALL P. PEERENBOOM, CHINA'S LONG MARCH TOWARD RULE OF LAW 348 (2002).

6. Fu Hualing, *Challenging Authoritarianism through Law: Potentials and Limit*, 6 NAT'L TAIWAN U. L. REV. 339, 341 (2011).

7. *Id.*

8. *Id.* at 344-45.

9. *Id.* at 358-59.

10. *Id.*

11. Eva Pils, *The Practice of Law as Conscientious Resistance: Chinese Weiquan Lawyers' Experience*, in THE IMPACT OF CHINA'S 1989 TIANANMEN MASSACRE 109, 109-10 (Jean-Philippe Béja ed., 2011).

methods include criminal incarceration,¹² the use of the license renewal procedure to revoke *weiquan* lawyers' licenses,¹³ the use of the annual National Judicial Examination to fail certain controversial candidates, and the use of law firms and law associations to pressure lawyers into inaction with regard to particularly sensitive cases.¹⁴ In 2012, the Chinese Human Rights Defenders recorded, in relation to human rights activists in China (including *weiquan* lawyers), 120 instances of administrative detention, 90 instances of criminal detention, and eight instances of detention in psychiatric institutions. In the same year, the Chinese Human Rights Defenders also recorded 75 "enforced disappearances" and, strikingly, the number of recorded cases of soft detention more than doubled from the previous year (from 163 to 387).¹⁵ With these measures, the government has created a repressive environment, and the suppression of rights has become widespread. Watching Beijing repress *weiquan* lawyers has led local governments to commit their own, often harsher, persecutions. Local authorities are encouraged to make decisions to repress *weiquan* lawyers when the national trend is in that direction.¹⁶

While government repression is a substantial obstacle, *weiquan* lawyers continue to assist clients on a wide scale. To understand how barefoot *weiquan* lawyers operate, it is necessary to take a step back and look at the broader concept of *weiquan* lawyering.

III. WEIQUAN LAWYERS

The concept of a *weiquan* lawyer is similar to that of a cause lawyer, a broad concept embracing a continuum of lawyers who combine the law with morality and use their professional careers to change the social, economic, or political status quo. Because ideology and morality are of the utmost importance to these lawyers, the conventional lawyer-client relationship is fundamentally transformed. Serving one's client is not an end in itself, but simply one aspect of attaining the lawyer's own larger goals.¹⁷

12. An example is the arrest of human rights activist and lawyer Teng Biao in the crackdown following the Jasmine Revolution in 2011. Another is the conviction of Gao Zhisheng for "inciting subversion." *Id.*

13. Liu Wei is an example of a lawyer whose license was revoked. For more information, see *Liu Wei*, COMMITTEE TO SUPPORT CHINESE LAWYERS, <http://www.csclawyers.org/cases/LiuWei> (last visited Mar. 20, 2013).

14. Pils, *supra* note 14, at 113-14.

15. CHINESE HUMAN RIGHTS DEFENDERS, IN THE NAME OF STABILITY – 2012 ANNUAL REPORT ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN CHINA 1 (Mar. 2013). Soft detention involves the stationing of police outside an individual's home. On the rare occasion where a soft detainee is permitted to leave his home, he will be followed and monitored closely, or may have to travel in a police vehicle. Also, he generally will be prohibited from meeting with other individuals deemed "sensitive" by the authorities. The soft detention period usually continues until the incident that triggered the detention passes, and may last for months or years afterward. *Id.* at 15, n. 4.

16. Fu, *supra* note 7, at 360.

17. AUSTIN SARAT & STUART SCHEINGOLD, CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES 3-4 (1998).

Weiquan lawyering, a type of cause lawyering, is a process by which lawyers challenge China's authoritarian government using legal institutions and other means.¹⁸ *Weiquan* lawyers are mainly involved in protecting the rights of vulnerable groups from abuse by the government.¹⁹ Unlike other lawyers, they often have larger goals beyond individual cases that sustain their *weiquan* practice in the long run. These goals may range from more tempered desires to push for policy reform and more legal rights for vulnerable groups, to more extreme ambitions of overthrowing the one-party state.²⁰

Scholars have written extensively on *weiquan* lawyering.²¹ *Weiquan* lawyers can largely be categorized into two groups: licensed *weiquan* lawyers and unlicensed, or barefoot, *weiquan* lawyers. Most, if not all, of the literature focuses on licensed *weiquan* lawyers. Because both types of lawyers belong to the larger category of *weiquan* lawyers, examining the literature on licensed *weiquan* lawyers and the key differences between the two types of *weiquan* lawyers is helpful in formulating predictions about how barefoot *weiquan* lawyers operate. Thus, it is helpful to briefly explore some of the literature on licensed *weiquan* lawyers.

A. *Licensed Weiquan Lawyers*

Licensed *weiquan* lawyers, as the name suggests, are those *weiquan* lawyers who hold licenses to practice law. Having a license has several implications, including that: (1) these lawyers have to study the law comprehensively in order to pass the bar examination, which means that they have a guaranteed level of legal competence to some extent and (2) the Ministry of Justice regulates these lawyers. Regarding the latter implication, the Ministry of Justice administers the bar examination; promulgates qualifications for lawyers; issues certificates and annual reviews for license renewal; and supervises and disciplines lawyers.²² In this way, all licensed lawyers maintain close ties to the state, and most aspects of their career depend on the discretion of the Ministry. Because of these close ties, licensed lawyers must maintain good relationships with the Ministry or face problems like extortion or even retaliation in the form of revoked licenses and loss of business opportunities.²³

18. Fu Hualing & Richard Cullen, *Climbing the Weiquan Ladder: A Radicalizing Process for Weiquan Lawyers*, 205 CHINA Q. 40, 40 (2011).

19. Fu Hualing & Richard Cullen, *Weiquan (Rights Protection) Lawyering in an Authoritarian State: Building a Culture of Public Interest Lawyering*, 59 CHINA J. 111, 114 (2008).

20. *Id.* at 116.

21. See, e.g., Eva Pils (Asking the Tiger For His Skin: Rights Activism in China, 30 FORDHAM INT'L L. J. 1209 (2007); *Rights Activism in China: the Case of Lawyer Gao Zhisheng*, in BUILDING CONSTITUTIONALISM IN CHINA 243 (Stephanie Balme & Michael C. Dowdle, eds., 2009); Fu, *supra* note 7; Fu & Cullen, *supra* note 21; BENNEY, *supra* note 4.

22. PEERENBOOM, *supra* note 6, at 355.

23. *Id.* at 356-57.

Hualing Fu and Richard Cullen put forward a useful typology of *weiquan* lawyers, placing them on a continuum from moderate, to critical, to radical.²⁴ Moderate *weiquan* lawyers take cases that have fewer political consequences but more of a direct effect on the lives of ordinary citizens. When advocating for their clients, they restrict themselves to what is legally permissible, focusing on technical legal points and constraining their advocacy to the courtroom.²⁵

Critical *weiquan* lawyers handle cases that are more politically sensitive. They tend to commit themselves to one issue and become much more specialized in that field compared to other lawyers. Unlike moderate *weiquan* lawyers, they take cases that are political as well as legal, and they are prepared to mobilize any political or social resources they have. Similar to moderate *weiquan* lawyers, they prefer changing the system from within. Critical *weiquan* lawyers may be more willing to test limits with their legal challenges, but both try to stay away from radical activism.²⁶

Radical *weiquan* lawyers handle the most politically sensitive cases and have the largest political agenda, essentially identifying with political dissidents and their causes. They tend to directly challenge the system without considering what the social consequences might be. For them, the type of gradual reform advocated by moderate and critical *weiquan* lawyers is too slow, and they prefer using external pressure to change the political system.²⁷

B. *Unlicensed Weiquan Lawyers*

In contrast to licensed *weiquan* lawyers, barefoot *weiquan* lawyers are not “lawyers” in the conventional sense because they lack a practicing license and often do not have formal legal training. This category of *weiquan* lawyer exists because laymen are allowed to legally represent others in Chinese courts as agents *ad litem*, even though no fee-charging is permitted.²⁸ The nature of Chinese law, as compared to the common law, makes this a much easier task. This is because Chinese law is mostly codified black-letter law, supported by various interpretative documents, which makes it much more accessible than the precedent-based law of common law jurisdictions.

24. Fu & Cullen, *supra* note 21, at 116-123. Some later writers have questioned the use of this taxonomy. See, e.g., BENNEY, *supra* note 4, at 142-45. However, for my purposes, it remains a useful heuristic for drawing the broad distinctions necessary to determine the general categories into which barefoot *weiquan* lawyers fall. As such, I have retained it for this article.

25. Fu & Cullen, *supra* note 21, at 116-18.

26. *Id.* at 118-20.

27. *Id.* at 120-23.

28. See Civil Procedure Law of the People’s Republic of China, promulgated by Order No. 44 of the President of the People’s Republic of China, Apr. 9, 1991, effective Apr. 9, 1991, art. 58. Note that similar provisions exist in the administrative and criminal law contexts.

Perhaps the most well-known barefoot *weiquan* lawyer today is Chen Guangcheng, the blind barefoot lawyer who escaped from house arrest in April, 2012. After previously serving a full sentence of 4 years and 3 months in prison, he was released in 2010 but was kept under house arrest. Before his imprisonment, he learned the law from books and practical experience, and served a wide range of clients, many of whom were also disabled.²⁹ When he began to fight against a campaign of forced abortion and sterilization, however, he brought national and international attention to the issue, which resulted in a crackdown by the local authorities against him and his family.³⁰ There are many other examples of barefoot *weiquan* lawyers in rural areas who have managed to secure legal victories for themselves and the people around them. One example is Wang Xuefu, a 53 year-old man who taught himself the law and helped 6 families successfully sue a township government in 1996.³¹

Despite the prevalence of barefoot *weiquan* lawyers today, surprisingly little academic literature has been devoted to discussing them. Jonathan Benney's book, *Defending Rights in Contemporary China*, fails to address barefoot *weiquan* lawyers in a systematic manner, although he mentions the activities of some barefoot *weiquan* lawyers such as Chen Guangcheng and Zhou Guangli in his discussion of legal rights defense.³² While he does not seem to see barefoot *weiquan* lawyers as a separate category of legal rights defenders worthy of study, Benney does suggest that the sector of barefoot lawyers has developed in response to public demand and a lack of legal resources. In addition, Benney suggests that barefoot lawyers tend to have more limited resources and a lower educational background. Because of this, they generally see the law as the last option when other informal conflict resolution methods have proved ineffective: "[i]f barefoot lawyers seem exceptionally devoted to the law, it is . . . because they see no other option for solving their problems."³³

Benney's discussion on barefoot *weiquan* lawyers also drew, in part, on the work of Xing Ying.³⁴ In his article, *Barefoot Lawyers and Rural Conflicts*, Xing uses case studies to describe how barefoot lawyers have brought law into the countryside, making law "part of the practical tool-kits of peasants' daily lives."³⁵ He suggests, however, that the legal services provided by barefoot *weiquan* lawyers are not sufficiently professional:

29. Jerome Cohen, *Medals for Human Rights Heroes*, 81 EUR. LAW. 54, 54 (2008).

30. *Id.* at p 55.

31. Melinda Liu, *Barefoot Lawyers*, NEWSWEEK (Mar. 3, 2002), <http://www.newsweek.com/2002/03/03/barefoot-lawyers.html>. In 1996, Wang helped 6 families sue the township government for demanding that they contribute \$18 apiece to build a new school. Wang argued that these types of "public-works fees" could not be imposed without the consent of the residents, and ultimately the judge ruled that the families were not required to pay. *Id.*

32. See BENNEY, *supra* note 4, at 132, 138.

33. *Id.* at 133.

34. See Xing, *supra* note 3.

35. *Id.* at 79.

“It is often true that barefoot lawyers have incomplete legal knowledge, are unskilled in applying the procedures, and inaccurate in using the appropriate lingo.”³⁶ Instead, Xing argues that the reason behind the high success rate of his case studies is the illegal administrative practices so common in the countryside. The legal rights of the accused are not taken seriously, thus the court is likely to support the plaintiff if the case is accepted and the plaintiff carries through with it.³⁷

Based on the key differences of barefoot *weiquan* lawyers and the little existing research on the phenomenon, I formulated two predictions regarding the strategic choices of barefoot *weiquan* lawyers. As mentioned above, the Ministry of Justice has an extremely significant influence over the careers of licensed lawyers, which means that many of them are reluctant to challenge the state due to fear of retaliation or other consequences. Also, for licensed *weiquan* lawyers who underwent formal legal education, this is often the basis for the formation of their social and legal network. This means that they tend to be more connected to the legal establishment, and less willing to take on cases that may threaten these connections. Barefoot *weiquan* lawyers, on the other hand, are not regulated in any way by the Ministry of Justice because they do not possess practicing licenses. Those who taught themselves the law are not likely to have formed social and legal connections that would anchor them to the legal establishment. Because of this, I predicted that the barefoot *weiquan* lawyers would use more aggressive and radical (i.e. less court-based) methods to defend their clients’ rights.³⁸ They would be less likely to exercise self-restraint because they do not need to worry about their professional image as lawyers. Finally, because they are not connected to existing legal institutions, they would also be less likely to be accepting of the current legal and political system, especially if they see it as the cause of the injustices they fight against.

My second prediction concerned the type of arguments barefoot *weiquan* lawyers choose to employ in court. Because barefoot *weiquan* lawyers do not need to take the bar examination and often have not undergone any formal legal training, I predicted that barefoot *weiquan* lawyers would be less likely to utilize technical legal arguments in their advocacy. Instead, they would be more likely to rely on moral and factual arguments, which require less legal expertise. This prediction is supported by Xing Ying’s suggestion that barefoot *weiquan* lawyers are not very legally competent, relying instead on prevalent illegal practices in rural areas.

To test these predictions, I conducted in-depth interviews with barefoot *weiquan* lawyers from various parts of China.

36. *Id.*

37. *Id.* at 77.

38. Although barefoot *weiquan* lawyers are not allowed to charge fees for legal services, I use the word “client” because they are commissioned in a similar way to fee-charging lawyers.

IV. METHODOLOGY AND RESULTS

I chose to conduct interviews with barefoot *weiquan* lawyers because this research method provides ground-level facts that the literature on *weiquan* lawyers has largely neglected. I conducted interviews with eleven barefoot *weiquan* lawyers – represented in this article by letters to conceal their identities – between February and March, 2011. The eleven interviewees were identified mainly through referrals by personal contacts who have connections with barefoot *weiquan* lawyers. Two of the interviews were conducted in Hong Kong, seven in Beijing, one in Foshan, and one in Shandong via Skype.³⁹ Most of the interviews were between one and two hours long. The interviewees came from a diverse variety of backgrounds. Their ages ranged from twenties to sixties. Their educational backgrounds ranged from having completed one year of middle school to having obtained a university degree. The comprehensiveness of their legal knowledge also varied, ranging from having taught themselves the entire law diploma curriculum to merely knowing the law related to one particular field. Interestingly, there was also a sharp contrast between their political ideologies, with interviewees falling on both extremes of the spectrum with regard to support for the Chinese government.

The majority of the interviewees fit the description of barefoot *weiquan* lawyers. All but one of the interviewees did not have practicing licenses, and the majority of the interviewees had no formal legal training.⁴⁰ Some only received secondary school education, while those holding university degrees generally studied other subjects, ranging from chemistry to languages. Apart from these similarities, however, the diverse backgrounds of the interviewees meant that their experiences as barefoot *weiquan* lawyers also varied. To establish a context for these lawyers' strategies, I will first discuss three aspects of their experiences, namely (1) their motivation for pursuing this line of work; (2) the ways they learned the law; and (3) the financial viability of their work.

In terms of motivation, I observed a consistent pattern of strong personal motivation across the sample of interviewees. The specific reasons why the interviewees chose to commit themselves to this line of work varied, but the reasons can be categorized into three groups.⁴¹ The first is where the interviewee was personally a victim of unfair treatment. One example is Ms. A, a barefoot *weiquan* lawyer working in the field of anti-discrimination against hepatitis B carriers. Being a hepatitis B carrier herself, she was treated unjustly when she attended university. During orientation, the university conducted a health check for the students,

39. What follows is a list of anonymized interviewees, organized by their location. Hong Kong: A, B; Beijing: C, D, E, F, G, H, and J; Shandong (via Skype): K; Foshan: L.

40. One interviewee, H, recently graduated from law school and passed the bar examination, and was soon due to receive her license. In the interview, she drew upon her experiences working without a license.

41. Note that some interviewees fall into more than one category.

and after it was discovered that she was a hepatitis B carrier, the university arranged for her to live in a dorm with other hepatitis B carriers. Because all of the students knew about this arrangement, this resulted in Ms. A being stigmatized and discriminated against. Because of this experience, Ms. A chose to take part in *weiquan* work in the field of hepatitis B discrimination after she graduated from university.⁴²

Mr. J, a barefoot *weiquan* lawyer working in the field of migrant laborer disputes, also began his *weiquan* work after suffering a personal injustice. When he was working in Beijing, several companies failed to pay his wages. He decided to sue the first company, which owed him RMB 120. The lawsuit lasted for one and a half years, costing him over RMB 1000. Even then he was not able to retrieve the money he was owed through the court process. He did, however, get his money back after China Central Television interviewed him. One week after the interview was broadcast on television, the Director of the Supervision Department of the Beijing Bureau of Labor called him. Mr. J filed the case the next day, and he was able to retrieve his money three days later. This experience had a profound impact on him. As he described,

I thought it was incredible that as a citizen, I could not protect my rights with the law and instead had to rely on the media. China's businesses aren't afraid of the law, they are just afraid of the media. . . I feel that when our rights are violated, we can't use violence, so besides using the law I don't know what other method to use. . . . Because I did not have any other way, I decided to pursue my original passion, and became a full-time *weiquan* lawyer after September 2004.⁴³

The second category of motivating reasons is where the interviewee learned about a particularly unjust case, whether personally or through other means like the media. Mr. B was inspired to found the *weiquan* organization Yirenping⁴⁴ because of a highly publicized case in 2003 involving a Zhejiang University student who wanted to be a civil servant but was denied because he had hepatitis B.⁴⁵ Mr. C, a barefoot *weiquan* lawyer working in the field of migrant laborer disputes, personally came across a group of 68 migrant laborers who had done 9 months of work without getting any remuneration at all. He was enraged when he heard this. As he explained, migrant laborers are at the lowest level of society, and no one really cares about their plight. At the time, he felt that someone had to stand up and help them, and because of this he started to systematically learn about the law in this area.⁴⁶

The third category is where the interviewee chose to pursue this line of work due to a more general sense of justice. For example, Mr. L,

42. Interview with A (Feb. 21, 2011).

43. Interview with J (Mar. 1, 2011).

44. The name Yirenping literally translates into "benefit, beneficence, and equality."

45. Interview with B (Feb. 22, 2011).

46. Interview with C (Feb. 25, 2011).

a barefoot *weiquan* lawyer mostly working in the field of anti-discrimination (such as discrimination against the disabled and the sick), joined a barefoot lawyer training program in 2007 when he learned that Mr. B was calling for the training of more barefoot *weiquan* lawyers to help the underprivileged. Mr. L felt that this was a very meaningful line of work because it was lawful and could help many weak and vulnerable groups in society. Because of the widening gap between rich and poor, many people who had been discriminated against did not have the money to take their case to court, which he perceived to be an injustice.⁴⁷

As for learning the law, the fact that these barefoot *weiquan* lawyers generally come from diverse, non-legal backgrounds means that they often have to learn the law on their own. The nature of Chinese law makes this task much easier than it would be in a common law jurisdiction because it is mostly based on codified black-letter law, with supporting interpretive documents. The interviewees who had not received legal training had various ways of learning the law. These included, among others, reading basic legal provisions,⁴⁸ getting assistance from licensed lawyers,⁴⁹ and reading explanatory books and documents.⁵⁰ The comprehensiveness of the interviewees' legal knowledge also varied. Most of the interviewees were only familiar with the law of the field that they do *weiquan* work in. For example, Ms. A said that because she had only accumulated her legal knowledge bit by bit after she started doing *weiquan* work, her legal knowledge was limited to the law concerning hepatitis B discrimination. This is understandable, since barefoot *weiquan* lawyers do not need to have the requisite legal knowledge to pass the bar examination. As such, they only need to learn the law that they use in their day-to-day work.⁵¹ However, possession of such limited, specialized knowledge was not a universal characteristic among the interviewees. One interviewee, Mr. K, had taught himself the entire law diploma curriculum.⁵² This was surprising because his *weiquan* work was concentrated on housing and expropriation cases, and such a comprehensive grasp of the law does not seem necessary for what he does.

Regarding financial viability, the fact that no fee-charging is permitted for barefoot *weiquan* lawyers meant that interviewees had to find other ways to make a living. The interviewees had different ways of doing this. For example, Mr. C originally had to work at an unrelated job to make a living until some of the defendants from his cases offered him the position of legal consultant at their companies. This gave him more

47. Interview with L (Mar. 18, 2011).

48. Interviews with A (Feb. 21, 2011), C (February 25, 2011).

49. Interview with B (Feb. 22, 2011).

50. Interviews with C (Feb. 25, 2011), D (Feb. 25, 2011), J (Mar. 1, 2011). C also observed the work of a law firm.

51. However, this also means they become highly specialized in their field. For instance, C noted that he likely had greater expertise in the field of labor disputes than his licensed counterparts. Interview with C (Feb. 25, 2011).

52. Interview with K (Mar. 15, 2011).

income for his *weiquan* work, as well as his daily living expenses.⁵³ Similarly, Mr. J cooperated with a law firm and took on all the cases from an insurance company in order to make money to cover his costs.⁵⁴ Several interviewees worked for *weiquan* organizations such as Yirenping and received either a salary or some form of funding from these organizations.⁵⁵ Yirenping itself receives funding from both overseas organizations and local donors.⁵⁶ Finally, Mr. D was already retired, so he lived off his pension funds.⁵⁷

V. STRATEGIC CHOICES

In this section, I examine the strategies that barefoot *weiquan* lawyers employ in light of the characteristics and experiences explored above. As discussed, I formulated two predictions regarding the strategic choices of barefoot *weiquan* lawyers. I predicted that: (1) they would employ more radical and aggressive methods in their advocacy and (2) they were more likely to use moral and factual arguments as opposed to technical, legal ones. I present my findings in relation to each prediction in the sub-sections below.

A. *Methods Employed By Barefoot Weiquan Lawyers*

Most of the interviewees said that they preferred to use legal methods where possible, although all of them agreed that extra-judicial methods should be employed if court-based approaches were not effective enough.⁵⁸ For example, Mr. G, a barefoot *weiquan* lawyer working in the field of anti-discrimination against hepatitis B carriers, thought it best to deal with a case within the framework of the law. However, he noted that, in the field of hepatitis B discrimination, one was not as effective if employing exclusively legal methods. This is why Mr. G preferred to use a combination of methods.⁵⁹ Mr. B said that he preferred to use the law where he could, but that more and more problems were being dealt with extra-judicially in China today.⁶⁰ Mr. J also attempted to use legal methods first, turning to other methods only if the problem could not be solved using the law.⁶¹ Some of the interviewees felt that the general lack of rule of law in China necessitated turning to extra-legal techniques. For example, while both Mr. L and Mr. F felt that it would be ideal to solve

53. Interview with C (Feb. 25, 2011).

54. Interview with J (Mar. 1, 2011).

55. Interviews with L (Mar. 18, 2011), H (Mar. 1, 2011), G (Mar. 1, 2011), A (Feb. 21, 2011).

56. Interview with B (Feb. 22, 2011).

57. Interview with D (Feb. 25, 2011).

58. Here, I use the word “extra-judicial” to mean any strategy that does not follow the conventional court settlement of a case.

59. Interview with G (Mar. 1, 2011).

60. Interview with B (Feb. 22, 2011).

61. Interview with J (Mar. 1, 2011).

matters legally, they noted that this was not possible given the situation in China today.⁶² As Mr. F explained,

Of course we wish to solve matters legally, but there are lots of restrictions in the current law. The law in China is not ideal because people in power interfere with it. So when we are dealing with particular cases, we use public opinion to try and restrain this power and lessen its control over the judiciary so that it is more fair.⁶³

This finding is significant, given Benney's suggestion that barefoot *weiquan* lawyers only engage with the law out of necessity, as a last resort.⁶⁴ As the above discussion suggests, the interviewees in fact showed a *desire* to use legal methods, even though they supplemented this with other methods when legal methods were not possible or ineffective.

As for extra-judicial methods, one method that all the interviewees referred to was the use of the media to elicit public opinion and put pressure on the defendant. This method is a particularly important part of Mr. B's *weiquan* work. For Mr. B, advocating in court is not just about persuading the judge, but also about letting reporters listen to Yiren-ping's views and ideas so that the public can be informed about the issue. Mr. B has two strategies for mobilizing the media. The first is packaging the case into something that attracts both the media and the public. For example, a 2006 case involving discrimination against a hepatitis B carrier was labeled as "Guangdong's first hepatitis B discrimination case." In 2007 there was a similar case in Shenzhen (a city within Guangdong province) which was similarly labeled as "Shenzhen's first hepatitis B discrimination case." According to Mr. B, all of these cases received media coverage, most likely because they were labeled the "first" in their particular geographical areas. In addition, the packaging of these issues as *legal* rather than *medical* issues led people to focus on the problem of inequality instead of whether the diseases might be infectious and thus frightening. Mr. B's second strategy is to write press releases in advance so as to drastically reduce the time a reporter needs to put together the story.⁶⁵

Not all of the interviewees were enthusiastic about using the media. Mr. J, while acknowledging that the media can be useful if a case cannot be solved using legal methods, emphasized the primacy of the rule of law. He felt that the role of the media was just to assist the process. This is because:

Sometimes public opinion will affect the fairness of the decision. Some cases do need the monitoring of the media, but if you allow the media to come in for normal cases as well, it will lead the cases astray. A developing country has to have rule of law as its goal, and

62. Interviews with L (Mar. 18, 2011), F (Feb. 27, 2011).

63. Interview with F (Feb. 27, 2011).

64. See BENNEY, *supra* note 4, at 133, and accompanying text.

65. Interview with B (Feb. 22, 2011).

all of the citizens have to follow the rules and the law for it to develop healthily.⁶⁶

Another interesting extra-judicial strategy involved the use of political means. The barefoot lawyer who used this strategy, Mr. E, was a peasant in a village about three hours away from Beijing. Mr. E viewed law and politics as intermingled. He explained that during his *weiquan* process, he had “[armed] himself with legal and political weapons,” indicating that political means were equally a part of his strategy as legal means. The particular political strategy at play is what he calls “political leverage” (*zhengzhi gonggan*), which involves exerting pressure on officials at a lower level by filing (or threatening to file) lawsuits against the government at a higher level.

An example Mr. E gave involved a peasant who had been charged with watching pornographic videos with his daughter in law. He claimed he did not do this. After he was arrested, he was locked up and exposed to the scorching sun for an entire day. Later, he was told that he had to pay RMB 5,000 in exchange for his freedom. His family members came up with the sum, but the local police officer told them they could pay the lesser sum of RMB 2,500 if they did not ask for a receipt. They chose to pay the lesser amount. Mr. E made use of this, saying, “He’s been fined, but no receipt has been given, so where has the money gone? This is public property, he is using his power and exploiting the people to steal public property.” Based on this point, he wrote a letter to the county level police department. With intervention from this higher level authority, the peasant received a refund of RMB 1,500 from the local police office. Although the peasant was already satisfied with the settlement, Mr. E insisted on bringing this case to the provincial level. Eventually, under pressure from provincial level and the county level authorities, the local police office refunded the remaining RMB 1,000 to the peasant.⁶⁷ This example shows how, instead of engaging in legal battles with the local government, Mr. E’s strategy often involved filing his case with the government or judicial branch at progressively higher levels, which resulted in the placing of political pressure on local officials from above.

Consistent with my first prediction, the interviewees employed a range of methods in their advocacy and did not limit themselves to the fixed framework of the law or court-based approaches. The interviewees often relied on the media to bring more attention to their cases, in the hope that they could pressure the defendant or court to act impartially. Bringing a case to a higher-level office was another method employed by interviewees to put pressure on the courts.⁶⁸ Surprisingly, however, the in-

66. Interview with J (1 March 2011). Again, the importance Mr. J placed on the primacy of the rule of law is particularly noteworthy in light of Benney’s suggestion that barefoot *weiquan* lawyers engage with the law out of necessity. See BENNEY, *supra* note 4, at 133, and accompanying text.

67. Interview with E (Feb. 27, 2011).

68. A similar method mentioned was bringing the case to the National People’s Congress if the courts failed to handle the case properly. Interview with K (Mar. 15,

interviewees were not noticeably more radical or aggressive than licensed *weiquan* lawyers. Most of the interviewees expressed a preference for staying within the framework of the law, resorting to extra-judicial methods only when legal methods proved unsuccessful. As Mr. L commented, “In general we try to protect our client’s rights while following the rules of the game, we do as much as we can in the current system.”⁶⁹ Even Mr. J, who seeks reform in the legal system, emphasized that for him, the reform process involves using his *weiquan* work to find gaps in the law and to use these cases as precedents to improve the system through the rule of law.⁷⁰ Mr. J’s idea of reform thus remains within the boundaries of the current legal system.

Thus, it seems that even though barefoot *weiquan* lawyers are not regulated by the Ministry of Justice and do not have strong ties to the legal establishment, they do not engage in radical, system-challenging behavior. Instead, the interviewees insisted on staying within the boundaries of the law, and many of them discussed ways of achieving the most effective results from *within* the legal system. Using Fu and Cullen’s typology as described above, the interviewees would seem to fall within the “critical *weiquan* lawyer” category because of their preference for changing the system from within.⁷¹

B. *Arguments Employed By Barefoot Weiquan Lawyers in Court*

As for the second prediction that barefoot *weiquan* lawyers would tend to employ moral and factual arguments rather than technical legal arguments, I discovered that, contrary to what was expected, some barefoot *weiquan* lawyers are indeed capable of and comfortable with employing technical legal arguments. Mr. C, a barefoot *weiquan* lawyer with no formal legal training, was particularly impressive in this regard. He provided two examples of such arguments that he used successfully in the past.

The first argument involved jurisdictional issues in the context of a disputed contract. The contract had been signed in Beijing and was to be performed in Shandong. When the migrant laborers Mr. C represented tried to sue for breach of contract, a jurisdictional issue arose. The courts in Shandong explained that the case was not within their jurisdiction, but when the plaintiffs applied to courts in Beijing, courts there also said they could not hear the case. As Mr. C explained, this was because the law states that one can only sue on a contract in the place where the contract is to be performed or in a place contractually agreed upon. Because the performance of the contract was to take place in Shandong and the contract did not specify any other jurisdiction for litigation, the laborers could only sue in Shandong. In response to this, Mr. C advanced an

2011).

69. Interview with L (Mar. 18, 2011).

70. Interview with J (Mar. 1, 2011).

71. Fu & Cullen, *supra* note 21, at 118-120.

argument focusing on the contractual obligations at play. He identified two separate obligations: (1) the work that was to be done in Shandong and (2) payment for the services, which was to be made in Beijing. Since the breach concerned the obligation that was to be performed in Beijing, he successfully argued that jurisdiction of the case should be in Beijing.⁷²

The second argument concerned compensation for an employee who died during non-work hours. As Mr. C explained, the new Commerce and Industry Regulations (“Regulations”) did not address this issue, but the old 1956 Regulations stated that the employer should provide suitable compensation to the family in such a scenario. The new Regulations no longer had this provision, but they also did not expressly provide that the employer no longer had responsibility for this. Because the National People’s Congress did not repeal the compensation provision from the 1956 Regulations when it enacted the new Regulations, Mr. C was able to successfully rely on this older provision to win the case.⁷³ As such, despite their comparative lack of formal legal training, it is apparent that there are barefoot *weiquan* lawyers with sufficient legal expertise to utilize technical legal arguments in their advocacy.

Nevertheless, and as predicted, some interviewees’ strategic choices were grounded on moral and factual arguments as opposed to legal ones. According to Mr. J, using factual arguments was even more effective than employing legal ones:

I think my skill is better than [licensed lawyers] because I am not as rigid. A lot of lawyers just use legal principles in court, but I am the opposite of them. I only present the facts, so that the judge can understand the truth of what happened, and then I persuade the judge using that. I don’t need to use legal principles or legal provisions to persuade the judge. . . . The reason why my success rate is so high is because I don’t use [inflexible] legal rules to persuade the judge, but I treat the judge as a person, and I persuade him with human emotions. . . . I feel that I am friends with the judge, I use language and facts to persuade the judge, not legal provisions, and I allow the judge to use the provisions himself to decide the case.⁷⁴

One of the interviewees felt that using moral arguments was advantageous for barefoot *weiquan* lawyers. According to Mr. B, the use of moral arguments was what distinguished barefoot *weiquan* lawyers from other lawyers:

The way that a lot of lawyers think is restricted by their legal training, and so they only discuss legal issues and rarely moral ones.⁷⁵

Other interviewees disagreed that moral arguments were always advantageous. For example, while Mr. L acknowledged that moral arguments may be utilized in some types of cases (such as family law cases),

72. Interview with C (Feb. 25, 2011).

73. *Id.*

74. Interview with J (Mar. 1, 2011).

75. Interview with B (Feb. 22, 2011).

he thought that in general, the most important standards by which to assess a case should be whether the outcome in that case is legal, reasonable, fair and just.⁷⁶ Similarly, Ms. A also thought that legal arguments were the most important in court because courts' decisions are based on legal principles. She felt that while moral principles affect the sympathy the judge has towards the client, this is only a secondary concern, because the most important thing is the law itself. If the case cannot be supported by legal principles, then there is a large chance that it will fail.⁷⁷

As illustrated above, barefoot *weiquan* lawyers employ a wide range of arguments in the course of their advocacy. Apart from the predicted use of moral and factual arguments, they are surprisingly capable of utilizing technical, legal points to advance their cases. This is especially notable, given the descriptions of barefoot *weiquan* lawyers that Benney and Xing have provided. Apart from the interviewees' desire to begin with legal methods as described above, Benney's suggestion that barefoot *weiquan* lawyers tend to engage with the law as a last resort because of their lower educational background⁷⁸ seems flawed for two reasons. First, his initial premise that barefoot *weiquan* lawyers have a lower educational background does not necessarily hold true, given that many of the interviewees hold university degrees. Second, his unspoken assumption that a lower educational background results in less familiarity with the law seems mistaken, given the legal competence of all the interviewees (even if only in their particular field), despite the fact that several of them only had formal education up to middle school.⁷⁹ Because these two assumptions may be flawed, it seems that Benney's conclusion may not follow, as my findings show.

Similarly, Xing's suggestion that barefoot *weiquan* lawyers have incomplete legal knowledge and are unskilled in applying the procedures⁸⁰ seems to be an oversimplification. While his case studies may serve as useful examples of barefoot *weiquan* lawyers who are indeed insufficiently competent in the law, my research shows that the legal competence of the interviewees was much higher than what would be expected based on the available literature. Based on the backgrounds of the interviewees, it seems that their legal competence is derived from both self-study and years of experience gained through advocating cases in specialized fields. While Xing's conclusions are perhaps descriptive of several case studies, they cannot be applied generally across the barefoot *weiquan* lawyer profession.

76. Interview with L (Mar. 18, 2011). It is interesting that L apparently does not consider moral arguments as fundamental in applying standards of reasonableness, justice and fairness.

77. Interview with A (Feb. 21, 2011).

78. BENNEY, *supra* note 4, at 133.

79. Interviews with D (Feb. 25, 2011), E (Feb. 27, 2011), J (Mar. 1, 2011).

80. Xing, *supra* note 3, at 79.

VI. CONCLUSION

This article has taken a preliminary step in filling in some of the gaps in the literature regarding barefoot *weiquan* lawyers and the strategic choices they make. While the literature on *weiquan* lawyers and the differences between licensed and barefoot *weiquan* lawyers led to the formulation of my initial predictions, my findings show that the literature has incompletely, and sometimes incorrectly described barefoot *weiquan* lawyers. While barefoot *weiquan* lawyers may use extra-judicial methods in addition to court-based methods, they do not appear to adopt markedly radical or aggressive tactics. Also, despite the fact that most barefoot *weiquan* lawyers have not studied the law curriculum comprehensively, some nevertheless employ sophisticated legal arguments in their advocacy.

While further research will need to be conducted to see what kind of role barefoot *weiquan* lawyers play within the larger context of the *weiquan* movement and the development of rule of law in China,⁸¹ I will make some preliminary comments here. First, barefoot *weiquan* lawyers currently play an important role in providing legal services in areas with few or no lawyers. Despite the government's aim to expand the legal profession as quickly as possible during the Deng era (i.e. from the late 1970s to the late 1990s), the profession is still unable to meet the demands of society, especially in rural areas. This is exacerbated by the skewed distribution of lawyers in China, with most lawyers preferring to work in large cities with more commercial opportunities. Even in locations with lawyers, aggrieved parties are often unable to afford their fees, and are ineligible for legal aid because of the many problems with the legal aid system, such as the general lack of financial resources and fundraising difficulties.⁸²

Barefoot *weiquan* lawyers play an important role in ameliorating the scarcity of legal resources in China today. They provide much-needed legal services in areas with no licensed lawyers. In areas with lawyers, they assist those who are both too impoverished to hire lawyers and ineligible for legal aid, as well as those who are suing for such small amounts that lawyers' fees would greatly exceed the amount they

81. For an in-depth exploration of this matter, see PEERENBOOM, *supra* note 6.

82. *Id.* at 361-63. Another stated problem with the legal aid system is the significant regional variation in which the legal aid programs are implemented – while some programs employ full-time lawyers, others merely utilize reassigned justice bureau officials, and some centers just add a sign to a local justice bureau's door without actually establishing a legal aid program. Also, legal aid centers generally have been concentrated in cities, and although some of them represent the rural poor and migrant workers, they have been inaccessible to most in need. See Benjamin L. Liebman, Associate Professor of Law and Director, Center for Chinese Legal Studies, Columbia Law School, Address at Congressional-Executive Commission on China Roundtable on "Access to Justice in China" (July 12, 2004), available at <https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/roundtables/2004/CECC%20Roundtable%20Testimony%20-%20Benjamin%20Liebman%20-%202012.04.pdf>.

are claiming.⁸³ Even in cities where large numbers of licensed *weiquan* lawyers congregate, there is still a far larger demand that licensed *weiquan* lawyers alone cannot meet, especially since licensed *weiquan* lawyers also need to spend time engaging in conventional practice or academic teaching to make a living. This is why there is still a considerable number of barefoot *weiquan* lawyers based in large cities like Beijing and Guangzhou.

A second observation about the role of barefoot *weiquan* lawyers stems from the fact that they are neither regulated by the Ministry of Justice nor restricted by the provisions of the Lawyers Law. Unlike licensed lawyers who depend on their licenses to make a living, barefoot *weiquan* lawyers do not have this concern. Because of this, they are considerably more independent from the system than their licensed counterparts. Accordingly, they can advocate for their clients or push for change without fear of retaliation.⁸⁴ Also, because they are less connected to the legal establishment, they are less hesitant to hold judges and other government officials responsible when they fail to act impartially.

As for the development of the profession, the barefoot *weiquan* lawyer phenomenon is not likely to be diminished in the near future. When asked their opinion on this, most of the interviewees replied that there would likely be a continuous supply of successors. Efforts have been made to train barefoot *weiquan* lawyers in a more systematic manner. For example, Yirenping periodically organizes training courses for people who are interested in becoming barefoot *weiquan* lawyers.⁸⁵ They are given an overview of the law, with materials regarding legal provisions, labor arbitration, civil and administrative procedure, evidence, how to write press releases, and the *weiquan* experience in general.⁸⁶

However, further development of the movement may face challenges. There have been reports of restrictions on agents *ad litem* in certain areas of China. For example, news reports indicate that local governments in places like Dongguan have put restrictions on how many cases an agent *ad litem* is allowed to handle each year.⁸⁷ Also, the Guangdong Political-Legal Committee released a report in 2009 saying that “professional” agents *ad litem* (those that charged fees illegally) were becoming

83. Interviews with C (Feb. 25, 2011), L (Mar. 18, 2011), G (Mar. 1, 2011).

84. Although, as we have seen, this push for change seems to occur *within* the boundaries of the current system.

85. Interview with B (Feb. 22, 2011).

86. YIRENPING (BEIJING HEADQUARTERS), FAN QISHI FALV WEIQUAN GONGJUBAO [ANTI-DISCRIMINATION LAW WEIQUAN TOOL KIT] (Oct. 2010).

87. *Dongguan Xianzhi Gongmin Daili Laogong Anjian* [Dongguan Restricts Agent Ad Litem Labor Cases], XIN TANG REN DIANSHI TAI [NEW TANG DYNASTY TELEVISION] (May 10, 2011), <http://www.ntdtv.com/xtr/b5/2009/10/20/a365447.html.%E6%9D%B1%E8%8E%9E%E9%99%90%E5%88%B6%E5%85%AC%E6%B0%91%E4%BB%A3%E7%90%86%E5%8B%9E%E5%B7%A5%E6%A1%88%E4%B%B6.html>.

a problem.⁸⁸ Several people and organizations were named, including well-known *weiquan* lawyer Tang Jingling. This suggests that some local governments have become uncomfortable with the work of barefoot *weiquan* lawyers, especially in the field of labor disputes, and are developing ways and reasons to restrict them. Continued governmental repression will be harmful, as many people will be without access to legal resources. In addition, as one interviewee suggested, removing access to legal methods may only drive workers to protest on the streets.⁸⁹ This suggests that restricting barefoot *weiquan* lawyers may have the unintended consequence of increasing social unrest.

The government has also enacted a law that may make it more difficult for barefoot *weiquan* lawyers to represent individuals in need. China recently amended the Civil Procedure Law of the People's Republic of China during the 28th session of the Standing Committee of the 11th National People's Congress on 31 August 2012. These amendments came into effect on January 1, 2013. Before the amendments, Section 58, which concerns agents *ad litem*, stated that a citizen approved by the court could be entrusted as a party's agent *ad litem*. After the amendment, a citizen who is not a lawyer, basic legal service worker, close relative, or employee of the party, can only be a party's agent *ad litem* if he is recommended by the community where the party resides, the employer of the party, or any other relevant social organization.⁹⁰ In theory, if an individual wishes to commission the help of a barefoot *weiquan* lawyer, it should not be difficult to find a relevant social organization to recommend him. The actual implications of this amendment, however, will have to be observed in the future.

These observations suggest that future research should explore whether instead of restricting barefoot *weiquan* lawyers, the state should allow them to continue promoting rights in order to promote its apparent goal of social stability.⁹¹ The state is likely to always monitor *weiquan* lawyering, and the threat of meddling may always be present. However, because the demand for legal resources is staggering and will not decrease in the foreseeable future, the state should tolerate or even encourage barefoot *weiquan* lawyers. Barefoot *weiquan* lawyers serve an important and useful function. They also may present fewer political problems

88. GUANYU GUANGDONG SHENG "ZHIYE GONGMIN DAILIREN" WENTI DE DIAOYAN BAOGAO [ABOUT THE RESEARCH REPORT ON GUANGDONG PROVINCE'S "PROFESSIONAL AGENTS AD LITEM" PROBLEM], ZHONGGONG GUANGDONG SHENGWEI ZHENGFA WEIYUANHUI [GUANGDONG PROVINCE POLITICAL-LEGAL COMMITTEE] (January 2009).

89. Interview with B (Feb. 22, 2011).

90. See Civil Procedure Law of the People's Republic of China § 58, promulgated by Order No. 44 of the President of the People's Republic of China, Apr. 9, 1991, effective Apr. 9, 1991.

91. This idea might seem counterintuitive. However, the process of channeling grievances into legal methods (even with the result that citizens learn how to challenge the government more effectively) ultimately is more beneficial to social stability than a system lacking such legal methods, where disgruntled citizens must resort to radical measures.

than organized, licensed *weiquan* lawyers, since licensed *weiquan* lawyers often have more resources they can rally up for a particular cause. Thus, for tactical-political, as well as long-term, society-building reasons, the state should not shut down or severely restrict the work of barefoot *weiquan* lawyers.