

Abstract

This dissertation observes contemporary Chinese lawyers at a watershed, a critical historical moment since their revival in 1979. During the time of my field research between 1999 and 2001, Chinese lawyers were at the final stage of "unhooking" from the state, a transition ongoing since the mid-1980s away from their official status as a public profession of "state legal workers" to an official status as a private profession of self-reliant, fiscally autonomous, entrepreneurial practitioners. Their transition from state-sector membership to private-sector membership mirrors a larger transition underway throughout Chinese society as a whole. I argue that the challenges and difficulties lawyers face in their everyday practice, their marginalization and overwhelming sense of insecurity, can only be understood in this larger context. The unclear and weakly protected status of lawyers is manifested in the same array of difficulties private business entrepreneurs have learned to negotiate, including routine administrative interference, official rent-seeking, and police harassment and intimidation. The inseparability of law from politics in the socialist context further exacerbates the vulnerability of lawyers, particularly criminal defense lawyers. Insofar as the plight of lawyers mirrors that of private business entrepreneurs, so too do their adaptive responses. Their dependence on key gatekeepers and decision-makers in government agencies, including judges, prosecutors, and police, has reinforced the importance of social connections and personal relationships as a basis for professional survival and success. In the process of making this argument I provide a history of the reemergence and development of lawyers in post-Mao China; a detailed descriptive overview of the organization of legal work, including the market for legal services and the structure of law firm organization (and variations thereto); a discussion of the uneasy relationship between lawyers and the state both in

contemporary China and in historical perspective; and an analysis of the extent and bases of inequality. Evidence is marshaled from a survey I conducted in the summer of 2000 of 980 lawyers in 25 cities across China; from interviews with 67 lawyers, legal scholars, government officials, and journalists; and from observations of 48 lawyer-client consultation sessions observed at a single law firm in Beijing.