

## **PART FOUR**

### **THE LAWYER'S SYSTEM IN CHINA**

#### **A. HISTORICAL DEVELOPMENT OF THE LAWYER'S SYSTEM IN CHINA**

The Lawyer's system in China took form in the modern times. After losing the Opium War, the Imperial Qing Government, in order to ease internal tensions, issued an imperial decree in 1900 to carry out political reform. Since 1902, under the leadership of Shen Jiaben and Wu Tingfang, the two ministers in charge of drafting of laws, a series of laws, including the criminal law, the civil law, the law on the organization of courts, and the criminal and civil procedure law, had been drafted. Among them, the Criminal and Civil Procedural Code of the Great Qing Dynasty was drafted in 1906. Chapter Four of the Code, "General Rules of Criminal and Civil Law", included a special section on lawyers (articles 199-207), which contained detailed provisions on such matters as the qualifications, the registration procedures, the duties of lawyers, the punishments for their violations of laws and regulations, and the approval procedures for foreign lawyers to practice in open ports, etc. The Draft Criminal Procedure Law and the Draft Civil Procedure Law, which were completed in 1911, also contained provisions on lawyers and the lawyer's system. In 1911, the Nanking Interim Government headed by Dr. Sun Yat-sen, made a Draft Lawyer's Law on the basis of western experiences. In 1912, on the basis of the draft law, the Beiyang Government made and promulgated the Interim Regulations on Lawyers, which provided for the lawyer's qualifications, the lawyer's certificate, the lawyer's registers, the lawyer's profession, the lawyer's associations, and the punishments of lawyers who violated the laws and regulations. Meanwhile, the Interim Regulations on the Registration of Lawyers, the Interim Regulations on the Punishment of Lawyers, and the Regulations on the Selection of Lawyer, had also come into force one after the other. By then, in terms of the adoption and promulgation of the laws and regulations, the lawyer's system had taken form.

In 1927, the Guomintang Government in Nanking adopted a Lawyer's Regulations which inherited the lawyer's system of the Beiyang Government and modified it in the light of

western lawyer's systems. In January 1941, the Lawyers Law was promulgated after deliberation by the Legislative Council. In March of the same year, the Detailed Measures for the Implementation of the Lawyers Law was promulgated by the Judicial Council. After that, the Regulations on the Registration of Lawyers, the Regulations on the Disciplinary Measures against Lawyers, Outline of the Measures of the Lawyer's Association for the Implementation of the Legal Aids System, Regulations on Foreign Lawyers who Practice in China had been promulgated one after the other. In 1948, the National Lawyers Union of the Republic of China (National Lawyer's Association) was established. The lawyer's system was further developed in terms of both contents and system.

With the establishment of the People's Republic of China in 1949, the lawyer's system in China, guided by the principle of "showing contempt for and repudiating the Six-Law Code and all the other reactionary laws and decrees of the Guomintang Regime, and showing contempt for and repudiating the anti-people laws and decrees of the United States, Japan, Europe and all the other capitalist countries", entered into a new phase of development. In 1950, the Ministry of Justice of the Central Government adopted the Interim Measures of Beijing, Tianjin and Shanghai for the Implementation of Defender's System and issued a Notice to Ban Clandestine Lawyers and Pettifoggers, thereby began the process of destroying the old lawyer's system and establishing the new. In 1953, offices of public defenders were set up in the people's courts in Shanghai (the name was changed to "office of public lawyers in the following year). In July 1954, the Ministry of Justice issued the Notice on Several Issues relating to the Experimentation of Court Organization System, according to which experimental offices of legal advisers were set up in Beijing, Shanghai, Tianjin, Chongqing, Shenyang and several other designated large cities. In September of the same year, the Organic Law of the People's Courts of the PRC was adopted, which clearly provided for the defendant's right to defense and the defense lawyer's system. In January 1956, the State Council endorsed the Report on the Establishment of Lawyer's System, submitted by the Ministry of Justice (the report provided for the lawyer's agencies, the nature, tasks and qualifications of lawyers, etc.) and promulgated the Interim Measures for the Collection of Fees by Lawyers. In March, the Ministry of Justice convened the first National Symposium on Lawyer's Work to discuss two draft regulations: the Regulations on Lawyers and the Interim Measures for the Collection of Fees by Lawyers. According to statistics, by June 1957, lawyer's associations (or their preparatory bodies) had been established in more than 19 provinces, autonomous regions or municipalities directly under the Central Government. More than 800 offices of legal advisers have been established throughout the countries, with

more than 2,500 full-time lawyers and 300 part-time lawyers.<sup>2</sup>

Between the Spring and Summer of 1957, an anti-rightists campaign was carried out within the Chinese Communist Party. With the broadening of the scope of this campaign, the lawyer's system was considered a "bourgeois system" and defense lawyers was accused of "helping the criminals to escape from punishment" and "losing their class stand". Lawyers who adhered to the law and facts were considered "advocating the supremacy of the law and resisting the leadership of the Communist Party". Many lawyers were labeled "rightists" and put into prison. Beginning from the second half of 1957, China gradually abolished the lawyer's system and entered into a period without lawyers and the lawyer's system.

The end of the "Cultural Revolution" and the convening of the 3rd Plenary Session of the 11th Party Central Committee brought opportunities for the restoration and development of the lawyer's system in China. In April 1979, an ad hoc group was set up by the Commission of Legislative Affairs of the Standing Committee of the National People's Congress to be responsible for the drafting of the Regulations on Lawyers. In July 1979, China promulgated the Criminal Procedure Law, which contained a special chapter on defense; In August 1979, the Ministry of Justice was restored. It took over the work of drafting the Regulations on Lawyers and began to set up lawyer's offices in various parts of the country. In August 1980, the Interim Regulations of the PRC on Lawyers was adopted by the Standing Committee of the 5<sup>th</sup> National People's Congress at its 15<sup>th</sup> meeting. The Regulations are China's first law on the lawyer's system. They provided for the nature, tasks, functions, rights, obligations, qualifications of lawyers and lawyer's agencies. The promulgation and implementation of these Regulations marked the restoration of the lawyer's system after many years of setbacks. In July 1986, the first National Lawyers' Congress was held in Beijing. It formally established All-China Lawyers' Association and adopted the Articles of Association of the All-China Lawyers' Association, thereby further developed the administration of the lawyer's profession. In December 1993, the State Council approved the Plan for the further Reform of the Lawyer's System, submitted by the Ministry of Justice. According to the Plan, great efforts should be made to develop the ranks of lawyers, to break the restrictions ownership mode and administrative system so as to increase the number and improve the qualify of lawyers. In May 1996, the Law of the PRC on Lawyers was adopted at the 19<sup>th</sup> meeting of the Standing Committee of the National People's Congress (it came into

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<sup>2</sup> Li Yunchang, Several Clarifications on the Interim Provisions of the PRC on Lawyers, in Mao Pengnian and Li Bida ed., Collection of Materials on the Research of the Lawyer's System in China, Law Press, 1992, p.5.

force on 1 January 1997). On 6 October 1996, the Executive Council of the All-China Lawyers Association adopted at its fifth meeting Code of Professional Ethics and Practice Discipline of Lawyers. The promulgation and implementation of the Law on Lawyers and the Code of Professional Ethics and Practice Discipline of Lawyers further improved lawyer's system and provided reliable legal safeguards for the deepening of the reform of the lawyer's profession.

## **B. CURRENT SITUATION OF THE LAWYER'S PROFESSION IN CHINA**

With the restoration of the lawyer's system, the lawyer's profession developed rapidly. This is mainly manifested by the growth of the ranks of lawyers, the expansion of the lawyer's business, and the improvement of the status of lawyers.

Between the end of 1970s and the end of 1981, there were already 1,465 offices of legal advisers with 5,500 lawyers throughout the country.<sup>3</sup> By 1986, there were 3,189 law firms with 21,546 lawyers, the numbers had increased by 118% and 292%, respectively, from those of 1981. After that, apart from 1990, the numbers of law firms and lawyers have been increasing by large margins. The year with the highest increase in the number of law firms was 1994, in which the number of law firms increased by 27.5% as compared with that of the previous year. The year with the highest increase in the number of lawyers was 1993, in which the number of lawyers increased by 50.7% as compared with that of the previous year. According to the statistics given by the China Law Yearbook (1998), by the end of 1997, there were 8,441 law firms and 98,802 lawyers in the whole country.

Article 2 of the 1980 Interim Regulations on Lawyers provided that the scope of lawyers' business shall mainly include:

- (1) to accept the mandate of state organs, enterprises and institutions, public organizations and people's communes to serve as their legal advisers;
- (2) to accept the mandate of a party to a civil action to serve as his representative in litigation;
- (3) to accept the mandate of a defendant or the assignment of a people's court to serve as his defender in a criminal case; to accept the mandate of a private prosecutor or of the victim and his near relatives in a public prosecution to

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<sup>3</sup> Zhang Zhimin, "The Legal Profession in Contemporary China, in Xia Yong, ed., Towards an Age of Rights, China University of Politics and Law Press, 1999, p.122, note 22.

serve as their representative in litigation;

- (4) to accept the mandate of a party in a non-litigious matter to give legal assistance or serve as its representative in mediation or arbitration;
- (5) to give consultative advice on legal questions and draft documents in connection with litigation or other legal matters.

With social and economic development and with the progress of legal construction in China, the scope of lawyers' business has been gradually expanded. First, some new categories of business have emerged, such as serving as representatives in administrative cases or in filing petitions, etc. Second, with the revision of existing laws or the adoption of new laws, the existing categories of business become richer in contents. For example, in criminal procedures, lawyers can represent their clients who are not satisfied with decisions on punishment in respect to management of public security in filing cases of private-prosecution, they can accept authorization by a citizen or criminal suspect to provide him with legal assistance at the stage of investigation; in non-litigation matters, they can represent their clients in handling the legal matters in banking, trade, real estate, intellectual properties and other activities. Besides, the increase of business in different areas lawyers' work has demonstrated that, while the business in all categories have increased over the years, the amount of business in non-litigation matters and in Perennial legal consul services have increased especially rapidly since 1989. Their business as representatives in civil and economic cases has also grown very rapidly since 1992. The 1996 Law on Lawyers, in the light of the reality of the development of the lawyers' business and needs of social and economic development, has provided for new categories of lawyers' business such as representing clients in administrative cases and cases of petition and expanded the scope of lawyers' business in criminal cases.

The growth of the ranks of lawyers and the expansion of the scope of lawyers' business have also reflected the improvement of the status of lawyers in China. In the late 1970s, when the lawyers' system and legal profession had just been reestablished, people still lacked the correct understanding of the lawyers' system and were hesitant in becoming lawyers. In order to attract people of high qualities to join the ranks of lawyers, the Interim Regulations on Lawyers defined lawyers as "state legal workers".<sup>4</sup> With the development of

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<sup>4</sup> The purpose of defining lawyers as state legal workers was mainly political. Mr. Li Yunchang pointed out in his article "Several Clarifications on the Interim Regulations of the PRC on Lawyers" that "The facts that China is a socialist state

the economy and the strengthening of the socialist democratic legal system, the social status of lawyers has been continuously improved. The 1987 Interim Regulations of Ningxia Hui Autonomous Region on the Performance of Function by Lawyers clearly provided in article 3 that: “The performance of functions by lawyers is protected by the law of the state. State organs, enterprises and institutions, social organizations and citizens shall respect and support the work of lawyers. They are prohibited to interfere or obstruct in any ways the performance of duties by lawyers or to create difficulties for, insult, retaliate against or persecute lawyers. Those who violate this provision shall, in the light of the seriousness of the circumstances, receive criticism and education from the competent organs or be investigated for criminal responsibilities.” The Several Provisions of Anhui Province on the Performance of Duties by Lawyers, promulgated in 1988, also stipulated that the performance of duties by lawyers in accordance with the law is the right provided for by the law and shall not be interfered or obstructed by any unit or individual. Lawyers who have been interfered with, insulted, vilified or persecuted because of their lawful performance of duties have the right to file complaints to the relevant state organs, which have the obligation to investigate and deal with such complaints in accordance with the law and give a reply to the complainants on the results of the handling of such cases. Since the 1990s, lawyer has become a very popular profession. On the one hand, more and more people are taking part in the lawyers’ qualification examination. In 1999 alone, 182,000 people took part in the lawyers’ qualification examination.<sup>5</sup> On the other hand, with the reform of the criminal and civil procedures, lawyers’ status in court proceedings has apparently improved. Compared with the 1980s, the lawyer’s profession has already been socialized and the autonomy of the lawyer’s profession has basically established. The 1996 Law on Lawyers defines the lawyer as “a practitioner who has acquired a lawyer’s practice certificate pursuant to law and provides legal services to the public.”

The development of legal profession is the result of reform and opening to the

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under the proletarian dictatorship and China’s economic basis is socialist ownership and that lawyers’ work has a very strong political nature have determined that it is inappropriate for the Chinese lawyers to work as private practitioners; they do not, and should not, like the private practitioners in the capitalist countries, only work on the basis of employment relationship and only for the interests of their clients. Rather, they should keep to stand of proletarian class and uphold the legitimate rights and interests of the parties under the precondition of upholding the correct implementation of the law.” (Li Yunchang, Several Clarifications on the Interim Provisions of the PRC on Lawyers, in Mao Pengnian and Li Bida ed., Collection of Materials on the Research of the Lawyer’s System in China, Law Press, 1992, p.5.). Therefore, the title “state legal worker” did not mean that lawyers actually had enjoyed a high status. This consideration of the legislators had show that the lawyer’s profession was under suspicion.

<sup>5</sup> The figure came from <http://www.sina.com.cn>. Xinhua News Agency, 16 October 1999.

outside world. Meanwhile the implementation of the reform and open policy is also continuously posing new challenges to the lawyer's profession. Firstly, with China's economy become more and more integrated with the world market, the trend towards free trade, internationalization of banking business and production networks will inevitably affect the mode of economic construction in China. As a result, international legal business will increase drastically and lawyers will play an important role not only in the resolution of disputes but also in production, trade and financial affairs. This requires the lawyers to be familiar not only with Chinese and foreign laws, but also with economy and foreign languages. They should be not only legal experts, but also economists. They should provide their service not only in China, but also abroad. Secondly, with the progress of the construction of democratic legal system in China, "administering the state in accordance with the law and building a state under the rule of law" has become one of the objectives of modernization in China. The freedom of the legal profession is one of the important symbols of the realization of the rule of law and lawyers are one of the important forces in the construction of the legal system. In the construction of the democratic legal system, lawyers should not only provide high quality service to their clients, but also contribute to the social justice, protection of civil rights, the improvement of law and the construction of democratic politics. Thirdly, the judicial reform, which started recently in China, will also bring new challenges and opportunities to Chinese lawyers. The key objectives of the judicial reform are to reform the structure of judicial power and, on the basis of personnel and financial reform in the judicial organs, to implement the system of judicial independence, eradicate judicial corruption and realize judicial fairness. The legal profession is closely related to the administration of justice and lawyers can play a very important role in the judicial reform. On the other hand, they can also impede or delay the development of new judicial mechanism. How to strengthen the reform of the lawyer's system and make it compatible with the judicial reform has become an urgent problem faced by China.

### **C. LAWYERS ASSOCIATIONS**

Since the restoration of the lawyer's system in the 1970s, the role of the lawyers' association has also been reconfirmed. The Interim Regulations on Lawyers, promulgated in 1980, stipulated in article 19 that "a lawyers association shall be established to protect the lawful rights and interests of lawyers, to exchange work experience, to further the progress of lawyers work and to promote contacts between legal workers both at home and abroad." In

1986, the first national lawyers' Congress was held in Beijing. The Congress established the All-China Lawyers Association and adopted the Articles of Association of All-China Lawyers Association. The Law on Lawyers, promulgated in 1996, contains a special chapter (chapter five) on matters relating to the lawyers' associations.

### **1. The Nature and Purposes of the Lawyers' Associations**

A lawyers association is a social organization consists of lawyers. Article 37 of the Law on Lawyers provides that a lawyers association is a public organization with the status of a legal person and shall be the lawyers' self-disciplinary organization.

According to article 19 of the Interim Regulations on Lawyers, the purposes of establishing lawyers associations are to protect the lawful rights and interests of lawyers, to exchange work experience, to further the progress of lawyers' work and to promote contacts between legal workers both at home and abroad. Accordingly, the Articles of Association of All-China Lawyers Association provides that the purposes of the Association are: to unit the all the lawyers in the country, further promote the self-construction of the lawyers' ranks, adhere to the Four Cardinal Principles, correctly implement the guidelines and the policies of the Communist Party and of the State relating to the lawyers, serve the people whole-heartedly, uphold the correct implementation of the law, so as to develop socialist democracy, improve socialist legal system, and promote the cause of socialist modernization. Generally speaking, the purposes of lawyers' associations can be summed up as the followings: 1. To uphold the lawful rights and interests of lawyers; 2. To exchange work experience, further strengthen the lawyers' ranks and to promote the furtherance of the lawyers' work; 3. To ensure the correct application of the law; 4. To promote the relationship between Chinese and foreign legal workers.

### **2. The Establishment of Lawyers Associations**

The lawyers associations in China consist of the All-China Lawyers Association and local lawyers associations. Paragraph 2 Article 37 of the Law on Lawyers provides that the All-China Lawyers Association is established at the national level, while local lawyers associations are established by provinces, autonomous regions, and municipalities directly under the Central Government. Local lawyers associations may be established according to need by cities divided into districts. Article 39 of the Law on Lawyers provides that a lawyer must join his local lawyers association. A lawyer who has joined his local lawyers association is at the same time a member of the All-China Lawyers Association. Therefore, although the



laws and regulations have not provided for any relationship of administrative subordination between the All-China Lawyers Association and the local lawyers associations, since local lawyers associations are members of the All-China Lawyers Association, in reality, a relationship of guidance and supervision exists between the All-China Lawyers Association and the local lawyers associations.

### **3. The Functions and Powers of the Lawyers Associations**

The functions and powers of the lawyers associations are usually provided for by the Laws and regulations on lawyers and the articles of association of lawyers associations. As the relevant provisions of the laws and regulations on lawyers and the articles of association of lawyers associations made since 1970s have demonstrated that the functions and powers of the lawyers associations have undergone a process of gradual development over the year, which reflected the gradual perfection of the lawyers system in China.

The 1980 Interim Regulations on Lawyers did not contain specific provisions on the functions of the lawyers associations, but only briefly mentioned in article 19 the power of lawyers to formulate their own articles of association: “The Lawyers association is a social organization. It shall formulate its own articles of association.” In 1986, the Articles of Association of the All-China Lawyers Association were adopted at the first National Lawyers Congress. Article 4 of the Articles of Association listed the functions of the All-China Lawyers Association:

- (1) to educate its member on political ideology and professional ethics and organize them to study the guidelines and policies of the state and of the Chinese Communist Party, the laws, and the relevant professional knowledge;
- (2) to organize the research on lawyer’s business, sponsor lawyer’s newspapers and magazines so as to enhance lawyers’ professional level of and promote the furtherance of lawyer’s work;
- (3) to support lawyers in their performance of duties in accordance with the law and uphold the lawful rights and interests of its members;
- (4) to provide professional information to its members;
- (5) to put forward to the relevant government departments proposals on the construction of the legal system;
- (6) to organize welfare undertaking for its members;
- (7) to coordinate the works of the lawyers associations in provinces, autonomous

- regions and municipalities directly under the central government;
- (8) to carry out exchanges with foreign lawyers' organizations.

Since all the local lawyers associations are members of the All-China Lawyers Association, the above provisions have also been incorporated in the articles of associations of local lawyers associations. Generally speaking, the function of local lawyers associations is to carry out the above-mentioned work within their respective areas. For example, their function with respect to item 7 list above is to coordinate their work with All-China Lawyers Association. The 1996 Law on Lawyers expanded the power of the lawyers associations. Article 14 of the law provides that lawyers associations shall perform the following duties:

- (1) assuring that lawyers practice according to law and protecting lawyers' lawful rights and interests;
- (2) summarizing and exchanging lawyers' work experience;
- (3) organizing professional training for lawyers;
- (4) conducting education in, inspection of, and supervision over, the professional ethics and practice discipline of lawyers;
- (5) making arrangements for exchanges between Chinese and foreign lawyers;
- (6) mediating disputes arising in lawyers' practice activities; and
- (7) other duties prescribed by law.

Article 2 of the Articles of Association of the All-China Lawyers Association pointed out that the All-China Lawyers Association is a non-governmental social organization consisting of all the lawyers in the country and under the guidance of the Ministry of Justice. Article 4 of the Law on Lawyers also provides that the judicial administration department under the State Council shall supervise and guide lawyers, law firms and lawyers associations in accordance with this Law. This means that, although the lawyers associations are non-governmental social organizations rather than state administrative organs, they must accept the guidance of the department of judicial administration. Therefore, they are not fully autonomous professional organizations. In practice, many lawyers associations are directly managed by the agencies in charge of administration of lawyers under the judicial administration departments of the government. The lawyers associations lack the substantial power in the management of lawyers' affairs. They are only the assistants to the judicial administration departments. This is a problem which must be dealt with in the future reform of the lawyers system in China.

#### **4. The Organizational Structure of the Lawyers Associations**

According to article 71 of the Articles of Association of the All-China Lawyers Association, three different organs are set up under the All-China Lawyers Association:

1. The National Congress. The National Congress is the highest decision-making organ of the All-China Lawyers Association. It meets every four years. Deputies to the Congress are elected by the local congresses of lawyers associations. Their term of office is four years and they can be reelected after the expiration of their terms. Their main functions and powers are: (1) to adopt and revise articles of association; (2) to discuss and decide upon the guidelines of work and tasks of the Association; (3) to hear and examine the work reports of the Executive Council; (4) to elect or remove from office members of the Council; etc.

2. The Council. The Council consists of several members elected by the National Congress. It is in charge of organization of the National Congress and is responsible to the National Congress. The Council meets once every year.

3. Executive Council. The Executive Council consists of the President, the Vice President, the Secretary General and the Vice Secretary General. Its functions and powers are: to implement the decisions of the National Congress, take care of the routine matters of the Congress and study the setting up of working bodies of the Association during the period when the National Congress and the Council are not in session. The Executive Council is responsible to the Council and report work to the National Congress on behalf of the Council.

Since 1988, special lawyers committees were set up under the All-China Lawyers Association. Special lawyers committees are working bodies set up by the All-China Lawyers Association to organize lawyers to carry out their businesses. They are under the administration and supervision of the Executive Council of the All-China Lawyers Association. The first batch of special lawyers committees set up according to the Several Provisions Concerning the Special Lawyers Committees (For trial Implementation), adopted in 1988, were: special committees on criminal defense, civil agency, non-litigation legal affairs, foreign related economic legal service, and legal consul. The main tasks of the special lawyers committees are:

- (1) to sum up and exchange experiences within own their specialized fields;
- (2) to study and explore new situations and new problems within their own specialized fields;
- (3) to carry out liaison activities within their specialized fields through the exchange of information by various means;

- (4) to carry out exchange activities with their counterpart organizations in foreign countries under the unified arrangement of the All-China Lawyers Association;
- (5) to put forward proposals to the All-China Lawyers Association on the lawyer's professional work within their respective fields and to organize annual meetings of the special committee.

## **D. PROFESSIONAL ETHICS OF LAWYERS**

Lawyer's professional ethics are the embodiment of social ethics in the lawyer's profession. They are the ethics and the code of conduct that the lawyers must abide by in performing the functions and powers. In view of the special characteristics of the lawyer's profession, lawyer's professional ethics usually exist in the relationships between the lawyers, the state, the society, the parties concerned and other lawyers, which reflect the lawyers' obligations towards the state, the society, the parties concerned and other lawyers. Since the lawyers' professional ethics must be implemented through the lawyers' practice discipline, it is very difficult to make a clear distinction between the two. If a lawyer violates the professional ethics and practice discipline in his practice, he will receive not only moral condemnations but also disciplinary punishment by the lawyers organizations. He may even be investigated for criminal responsibilities.

The professional ethics and practice discipline of lawyers in China are mainly embodied in the relevant provisions of the following documents: Interim Regulations on Lawyers, Ten Requirements and Ten Prohibitions for Lawyers (Ministry of Justice, 1990), Rules on Disciplinary Punishment on Lawyers (Ministry of Justice, 1992), Code of Ethics and Practice Discipline for Lawyers, and the Law on Lawyers. The Code of Ethics and Practice Discipline for Lawyers, adopted by the All-China Association of Lawyers in 1996, lists in Chapter Two (articles 4-12) the following lawyers' ethics:

- (1) to serve the needs of socialist economic construction and of the reform and opening to the outside world; to promote the construction of socialist democratic legal system; to contribute to the strengthening of people's democratic dictatorship and the stability of the country; and to protect the lawful rights and interests of the parties concerned;
- (2) to abide by the Constitution and the law, to base themselves on facts, take law as the criterion, and practice the law in strict accordance with the law;

- (3) to be devoted to their duties, adhere to the principles and uphold the law and social justice;
- (4) to maintain high moral standard, be honest and self-disciplined, value their own professional reputation, and not do anything that will impair the image of lawyers' profession;
- (5) to abide by the good faith principle and to provide legal assistance to the parties concerned in a prudent and responsible manner;
- (6) to keep confidential secrets of the State and commercial secrets of the parties concerned that they come to know during their practice activities and to not divulge the private affairs of the parties concerned;
- (7) to respect their colleagues, to carry out mutual assistance and fair competition among themselves so as to improve their professional ability;
- (8) to practice law in a conscientious manner, try their best to grasp legal knowledge and professional skill needed for their practice activities, and pay special attention to the cultivation of professional ethics and mastery;
- (9) to abide by the articles of association of lawyers associations and to carry out their duties as members of such associations. Chapter Three (articles 13-17) listed the following practice disciplines:
  - a. to abide by the regulations on lawyer's work adopted by the departments of judicial administration, the code of conduct adopted by the lawyers associations and the relevant disciplines, rules and regulations related to their work;
  - b. not to accept authorization privately, charge fees to a client privately, or accept money or things of value from a client;
  - c. not to refuse to undertake or neglect the duty of legal aid assigned by the state;
  - d. not to violate the regulations on the charge of fees and financial discipline of the law firm or to embezzle, divide up in secret, and misappropriate business income of the law firm;
  - e. not to simultaneously practice in two or more law firms.

The practice of Chinese lawyers in reality is, generally speaking, highly recommendable, although violation of professional ethics and discipline by lawyers is not a

rare phenomenon in China. Engaging in unfair competition by various means, such as soliciting business by paying middleman's fees and kick backs and exerting unjust influences on judicial personnel, are relevantly widespread phenomena in China. Incidents of lawyers squandering the money of clients, accepting or asking for unjust payment from clients, catering for the unjust demands of clients and maliciously collaborating with others to harm the interests of clients are also common in China. According to statistics, between 1985 and 1991, 63 lawyers had their practice certificates revoked by the Ministry of Justice, 24 or 38.1% of them because of embezzlement, accepting bribes, stealing and other criminal activities and 21 or 33.3% of them because of visiting prostitutes or having illicit sexual relationship with clients or their family members. Since the restoration of the self-discipline system 15 years ago, 31 lawyers have been given punishments in Guangdong Province for violating laws and disciplines, 31% of them because of violation of social ethics such as visiting prostitutes, 22% of them because of accepting authorization privately, charging fees to a client privately, or accepting money or things of value from a client, 19% of them because of using false certificates to fraudulently obtain passports or lawyer's qualifications or making false statements in courts.<sup>6</sup> Therefore, strengthening the professional ethics and practice discipline of lawyers remains an important task in the construction of the lawyer's system in China.

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<sup>6</sup> See Zhang Zhiming, "Legal Profession in Contemporary China", in Xia Yong, ed., *Towards An Age of Rights*, China University of Politics and Law Press, 1999 edition, pp159-162.

## E. RELEVANT STATISTICS

**Table I. Basic Statistics on Law Firms in China: 1986-1997**

Year	Law Firms				
	Total Numbers		Non-state run Law Firms		
	Number	Rate of increase as compared to the previous year (%)	Number	Percentage of the total (%)	Rate of increase as compared to the previous year (%)
1986	3198	-	-	-	-
1987	3291	2.9	-	-	-
1988	3473	5.5	-	-	-
1989	3653	5.2	-	-	-
1990	3653	0	-	-	-
1991	3760	2.9	73	1.94	-
1992	4176	11.1	198	4.74	171.23
1993	5192	24.3	505	12.05	155.05
1994	6619	27.5	1193	18.02	136.24
1995	7247	9.5	1625	22.42	36.21
1996	8265	14.0	2655	32.12	63.38
1997	8441	2.1	2957	35.03	11.37

Source: China Law Yearbook: 1987-1998

**Table II. Statistics on Lawyers**

Year	Number of Lawyers				
	Total	Full-time Lawyers	Part-time Lawyers	Lawyer-at-invitation	Apprentice lawyer
1986	21546	14500	7046	601	2727
1987	27280	18308	8972	855	1704
1988	31410	21051	10359	1002	1433
1989	43533	23766	19767	2409	1275
1990	38769	23599	15170	2614	861
1991	46850	18878	10662	3901	-
1992	45666	22124	12391	3975	-
1993	68834	30401	16793	10166	-
1994	83169	40730	20171	9637	-
1995	90602	45094	17994	11696	-
1996	100198	47879	20243	15376	-
1997	98902	47574	18695	12892	-

Source: China Law Yearbook: 1987-1998.

**Table III: Statistics on main the business of lawyers: 1985-1997**

Year	Criminal cases			Civil and economic cases		Administrative cases		Non-litigation legal business	Perennial legal consul	Legal advisory service	Preparation of legal document
	total	Defense lawyers appointed by the court	Defense lawyers engaged by the defendant	Total	Economic cases	total	Representing the defendants				
1985	106840	7642	98198	108227	-	-	-	41136	39441	1635543	316396
1986	136837	9944	127013	162999	68068	-	-	41185	43184	1590173	328923
1987	154485	12239	142246	208627	96248	-	-	55061	59478	1903759	415921
1988	170194	12939	155843	265326	111900	-	-	71618	88108	2411391	534861
1989	232406	17570	214905	265326	211285	-	-	133194	108809	2625777	568392
1990	247466	-	-	333525	127987	-	-	110539	110570	2741446	523973
1991	230967	194565	96566	226909	17341	14307	8986	236707	128921	2441890	2751124
1992	219739	14389	180254	396342	182021	16061	5885	277030	151501	2775324	610114
1993	191657	12933	155045	483306	237119	15260	5380	350408	185715	2414778	600243
1994	208806	14543	167402	541574	276720	16283	5888	403544	203320	2907166	528148
1995	204382	14991	156433	641159	324909	18043	7054	452021	234496	1960017	543760
1996	245877	20272	181926	714064	360224	19360	8350	435483	223043	1864597	522872
1997	275188	22733	147826	857610	403337	29618	12108	1222239	232434	4259159	958657

Source: China Law Yearbook: 1987-1998.