

Symposium: China and the International Legal Order

## **The Rules of the (Belt and) Road: How Lawyers Participate in China’s Outbound Investment and Infrastructure Initiatives**

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This article provides a bottom-up view of China’s Belt and Road Initiative (BRI) through an empirical examination of how and why domestic lawyers are engaged in BRI investment and infrastructure projects. Drawing on an original dataset of biographical information of, and eleven semi-structured interviews with, lawyers identified by the state as “BRI and Cross-Border Legal Experts,” I examine these lawyers’ demographic characteristics, the knowledge they rely upon in their work, and their motivations. I find that China’s BRI lawyers work and speak in ways similar to cross-border lawyers from countries like the United States. At the same time, these state-adjacent professionals acknowledge the state’s heavy involvement in crafting the environment surrounding their work. Although these politics do not necessarily affect the technical aspects of their practice, many keep close tabs on BRI policies, some are involved in policy reform efforts, and most express pride in what a successful BRI might mean for China’s future.

In addition to contributing to sociolegal scholarship interested in the legal profession’s role in (re-)crafting dominant global scripts, I suggest that the day-to-day work of legal professionals serves as a barometer of the intentions and successes of Chinese state policy. For now, my portrait of China’s BRI lawyers suggests that they largely adhere to the existing script’s understanding of norms and best practices, and see their work as complementary to the existing system rather than subversive. Nonetheless, I urge continued focus on BRI lawyers and the other on-the-ground actors that make China’s foreign policy a reality.

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## INTRODUCTION

Almost any discussion of China and the future of global affairs naturally turns to the Belt and Road Initiative (BRI). Announced by President Xi Jinping in fall 2013, BRI is characterized by support for large-scale development projects (including roads, railways, oil and gas pipelines, electricity projects, and ports) in over 123 countries and counting.<sup>1</sup> In popular discourse, perceptions of BRI vacillate between two poles. At one end, BRI projects are championed as “win-win” diplomacy that provide developing countries with necessary loans and infrastructure,<sup>2</sup> oftentimes for projects that other international institutions and global players are too hesitant to fund.<sup>3</sup> At the other end, news coverage of failed projects in Djibouti<sup>4</sup> or debt defaults in Sri Lanka<sup>5</sup> have raised concerns about the intentions motivating China’s “infrastructure diplomacy.”

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1. See Kevin G. Cai, *The One Belt One Road and the Asian Infrastructure Investment Bank: Beijing’s New Strategy of Geoeconomics and Geopolitics*, 27 J. CONTEMP. CHINA 831, 833 (2018); *Highlights of News Conference of NDRC*, CHINA DAILY (Mar. 7, 2019), <http://en.people.cn/n3/2019/0307/c90000-9553445.html> [<https://perma.cc/T2FA-BQUY>]; Jamie P. Horsley, *Challenging China to Make Good Project Governance a Centerpiece of the Belt and Road Initiative* (Dec. 2018) (unpublished manuscript) (on file with author).

2. Wang Yi, State Councilor & Foreign Minister, *Stronger Legal Cooperation for Sound and Steady Development of the Belt and Road Initiative*, Speech (July 3, 2018), [https://www.fmprc.gov.cn/mfa\\_eng/zxxx\\_662805/t1573636.shtml](https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1573636.shtml) [<https://perma.cc/N2UU-PSB6>].

3. See *Shaking Up the Banking Establishment*, N.Y. TIMES (Dec. 4, 2015), <https://www.nytimes.com/interactive/2015/12/04/business/international/china-factor-banks.html> [<https://perma.cc/SFW9-GAL8>].

4. See Kinling Lo, *Legal Bump in the Belt and Road?: A Mideast Port Giant, a Chinese Rival and a Hong Kong Lawsuit over a Djibouti Deal*, SOUTH CHINA MORNING POST (Feb. 17, 2019), <https://www.scmp.com/news/china/diplomacy/article/2186411/lawsuit-against-chinese-port-builder-djibouti-highlights-risks> [<https://perma.cc/7ZMH-P5ZG>].

5. See Maria Abi-Habib, *How China Got Sri Lanka to Cough Up a Port*, N.Y. TIMES (June 25, 2018), <https://www.nytimes.com/2018/06/25/world/asia/china-sri-lanka-port.html> [<https://perma.cc/E5QG-Q8G3>].

Although debates rage on about whether BRI is part of a grand strategy to export Chinese institutions and ideals,<sup>6</sup> the discussions are mostly pitched at the state-to-state level. Yet these discussions obscure the actors on the ground that are involved in the day-to-day work of BRI. This article attempts to fill that gap by examining the ways in which the Chinese legal profession contributes to and perceives of its role in BRI. Chinese lawyers are inevitably involved in BRI projects—from contracts to dispute resolution, and everything in between. In fact, the importance of lawyers is recognized by numerous Chinese state officials, including the Supreme People’s Court; the Ministries of Justice, Commerce, and Foreign Affairs; and the Chinese Communist Party’s (CCP) Central Committee.<sup>7</sup>

Who are the Chinese lawyers participating in state-led efforts at international investment and infrastructure development, and how do they understand their involvement? What can this participation tell us about state-professional relations and the ways in which Chinese lawyers navigate Western and Chinese professional scripts? Although I am not the first to take the structure and expectations of this growing group of “BRI lawyers” seriously,<sup>8</sup> I extend existing work both empirically and theoretically. Conceptually, I situate China’s BRI lawyers among a growing cadre of People’s Republic of China (PRC) lawyers with expertise in foreign law and who belong more generally to a group of “state-adjacent” professionals.<sup>9</sup> As described by myself and Professor Rachel Stern, “[s]tate-adjacent lawyers inhabit a politically embedded position neither entirely within-the-system nor outside-the-system, where they serve as trusted citizen-partners in governance.”<sup>10</sup> Lawyers with foreign-related legal expertise are increasingly relied upon by the state to advise domestic industries, broker deals with foreign companies and states, and

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6. See, e.g., William A. Callahan, *China’s “Asia Dream”: The Belt Road Initiative and the New Regional Order*, 1 *ASIAN J. CONTEMP. POL.* 226 (2016); Cai, *supra* note 1.

7. See, e.g., Lei Lina, *Guanyu jianli “yidai yilu” guoji shangshi zhengduan jie jue jizhi he jigou de yijian [Opinions on Establishing Belt and Road International Commercial Dispute Resolution Mechanism and Institutions]*, CHINESE COMMUNIST PARTY CENT. COMMITTEE (June 27, 2018), [http://www.gov.cn/zhengce/2018-06/27/content\\_5301657.htm](http://www.gov.cn/zhengce/2018-06/27/content_5301657.htm) [<https://perma.cc/AV2D-W4KC>]; Nian Wei, *Shouquan fabu: Guanyu fazhan shewai falü fuwu ye de yijian [Authorized Release: Opinions Concerning the Development of Foreign-Related Legal Services]*, XINHUA NEWS (Jan. 9, 2017), [http://www.xinhuanet.com/politics/2017-01/09/c\\_1120275357.htm](http://www.xinhuanet.com/politics/2017-01/09/c_1120275357.htm) [<https://perma.cc/G9A5-B4DU>]; Hou Yusheng, *Zuigao renmin fayuan guanyu renmin fayuan wei “yidai yilu” jianshe tigong sifa fuwu he baozhang de ruogan yijian [Several Opinions of the Supreme People’s Court on Providing Judicial Services and Safeguards for the Construction of the “Belt and Road” by People’s Courts]*, SUPREME PEOPLE’S CT. (July 7, 2015), <http://www.court.gov.cn/zixun-xiangqing-14899.html> [<https://perma.cc/VM9L-HFLU>].

8. See Roderick O’Brien, *The One Belt One Road Initiative and China’s Lawyers: A Work in Progress*, 27 *INTL. J. LEGAL PRO.* 339 (2020); Tommi Yu, *China’s ‘One Belt, One Road Initiative’: What’s in It for Law Firms and Lawyers?*, 5 *CHINESE J. COMPAR. L.* 1 (2017). Note that throughout the article, I refer to lawyers who represent clients involved in BRI projects as “BRI Lawyers.” I acknowledge that the definition of what constitutes a BRI project is not always clear, and I also recognize that BRI Lawyers so defined would be a subset of all Chinese attorneys that are involved in outbound legal work.

9. Lawrence J. Liu & Rachel E. Stern, *State-Adjacent Professionals: How Chinese Lawyers Participate in Political Life*, *CHINA Q.* (FirstView), <https://doi.org/10.1017/S0305741020000867>.

10. *Id.* at 2.

handle disputes that arise in challenging legal environments. By examining state-professional relations in the context of cross-border affairs, I explore what it means to be state-adjacent when state-led goals interact with Western training and ideals in settings beyond China's borders.

Empirically, I focus on the eighty-four Chinese lawyers in the All China Lawyers Association's (ACLA) "BRI and Cross-Border Legal Experts Talent Pool" (一带一路跨境律师人才库) [hereinafter "BRI Legal Expert"]. In addition to explaining who they are, I explore how these lawyers approach their participation in BRI projects. Given their recognition by government officials as well as a professional association with close ties to the Party-state, the inherently political nature of BRI projects, and the Western values many assume are embedded in international investment efforts by liberal democratic states, intergovernmental organizations, or transnational NGOs, these lawyers arguably operate at the boundary between Chinese and Western legal norms. I constructed an original database of biographical information on the eighty-four Chinese lawyers honored as BRI Legal Experts in 2017 and conducted eleven semi-structured interviews with the Experts and their associates in Beijing and Shanghai. Along with publicly available documents, these sources shed light on who the state encourages to participate in BRI, the toolkits these lawyers draw upon when performing their work, and why they choose to participate. These sources also provide a bottom-up account of an expanding segment of the legal profession, one that contributes to a richer understanding of Chinese lawyers as political actors operating within a variegated profession.<sup>11</sup>

The rest of the article proceeds as follows. Part I situates the piece among broader sociolegal questions concerning professional actors embedded in scripts about authoritarian politics, globalization, and development. Part II provides an overview of the political context that has fueled an increasingly robust foreign-related legal-services industry among China's domestic lawyers. The article then moves into the empirical components. After a discussion of data and methods in Part III, Part IV turns attention on the lawyer themselves—with a focus on who these lawyers are, the kinds of knowledge they develop and draw upon in their practice, and their motivations for pursuing this type of work. I find that China's BRI lawyers still operate in ways similar to cross-border lawyers elsewhere: they help their clients invest overseas by applying international best practices to different (though in BRI's case, often more challenging) local contexts. At the same time, they must also be responsive to substantial state involvement in the environment surrounding their work. Many Chinese BRI lawyers keep close tabs on official BRI policies, and some provide direct feedback on proposed policy reforms. This results in a lawyer that is reminiscent of American cross-border lawyers yet is also distinctly Chinese. I conclude by connecting the empirical findings to

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11. See, e.g., Rachel E. Stern & Lawrence J. Liu, *The Good Lawyer: State-Led Professional Socialization in Contemporary China*, 45 *LAW & SOC. INQUIRY* 226 (2020).

theoretical and policy discussions about China's outbound endeavors and urge continued focus on BRI lawyers as well as other on-the-ground actors that offer a bottom-up view of Chinese policy.

#### I. PLACING BRI LEGAL EXPERTS AMONG A GLOBAL LEGAL PROFESSION

Sociolegal scholars now widely recognize that law in authoritarian settings is often more than “window dressing for dictators,”<sup>12</sup> and much attention has been paid to the legal profession as a site of legal development and grassroots political mobilization.<sup>13</sup> Lawyers in the People's Republic of China are no exception, despite the relative infancy of the private bar. Chinese lawyers were largely state employees until a state-led campaign of “unhooking and restructuring” began the privatization of the profession in the late 1980s. In 1988, the first “cooperative” law firm appeared on the scene.<sup>14</sup> Although cooperative firms' assets were still owned by the state, these new entities were self-accounting and did not receive allocations of employees through the state personnel system.<sup>15</sup> In 1993, the State Council ratified a Ministry of Justice (MoJ) directive that formally removed law firms and lawyers from the ranks of administrative personnel and allowed for the establishment of the partnership law-firm model.<sup>16</sup> The process of privatization accelerated through the turn of the century. Whereas ninety-eight percent of law firms were state-owned in 1990, that number had fallen to fourteen percent by 2004,<sup>17</sup> and to below three percent by year-end 2019.<sup>18</sup>

Along with tracing these trends in the structure of the Chinese legal profession, existing research on contemporary Chinese lawyers has largely focused on the ways in which lawyers and law firms appear (or might eventually become) increasingly similar to their liberal democratic counterparts. From an institutionalist standpoint, isomorphism—the convergence of outward appearances with global norms—has long been a prominent theme of sociolegal writing about Chinese lawyers.<sup>19</sup> Isomorphism

12. Tamir Moustafa, *Law and Courts in Authoritarian Regimes*, 10 ANNU. REV. LAW & SOC. SCI. 281, 281 (2014); see Tom Ginsburg & Tamir Moustafa, Introduction: The Functions of Courts in Authoritarian Politics, in *RULE BY LAW: THE POLITICS OF COURTS IN AUTHORITARIAN REGIMES I* (Tom Ginsburg & Tamir Moustafa eds., 2008).

13. See, e.g., Eric Gobe & Lena Salaymeh, *Tunisia's “Revolutionary” Lawyers: From Professional Autonomy to Political Mobilization*, 41 LAW & SOC. INQUIRY 311 (2016); Moustafa, *supra* note 12; Freek van der Vet, “When They Come for You”: *Legal Mobilization in New Authoritarian Russia*, 52 LAW & SOC. REV. 301 (2018).

14. Ethan Michelson, *Lawyers, Political Embeddedness, and Institutional Continuity in China's Transition from Socialism*, 113 AM. J. SOCIO. 352, 371-72 (2007).

15. *Id.* at 372.

16. *Id.*

17. Stern & Liu, *supra* note 11, at 231.

18. Yang Cuiting, *2019 Niandu lüshi, jiceng falü fuwu gongzuo tongji fenxi [2019 Lawyers and Basic Legal Services Statical Analysis]*, MINISTRY OF JUST. (June 22, 2020), [http://www.moj.gov.cn/government\\_public/content/2020-06/22/634\\_3251200.html](http://www.moj.gov.cn/government_public/content/2020-06/22/634_3251200.html) [<https://perma.cc/G85W-GH33>].

19. See, e.g., William P. Alford, *Tasseled Loafers for Barefoot Workers: Transformation and Tension In the World of Chinese Legal Workers*, 141 CHINA Q. 22 (1995); Sida Liu, *Globalization as*

has rendered many aspects of Chinese lawyers' jobs, from the physical objects surrounding them to the organization of their workplaces, instantly recognizable to their counterparts in the United States or Europe.<sup>20</sup>

Sociolegal scholars writing on China have also looked for ways in which lawyers' behavior converges on norms in liberal democracies. For example, much research has focused on the activist lawyers who push for what Terence Halliday and Lucien Karpik call political liberalism.<sup>21</sup> These studies track activists pushing the boundaries of the permissible within authoritarian regimes and advocating for causes as diverse as labor rights and constitutional review.<sup>22</sup> In parallel, a much smaller literature has looked at the development of China's corporate bar or the dynamics of competition between foreign and domestic law firms.<sup>23</sup> Here also, we are often directed towards how Chinese lawyers and law firms compare to their Western counterparts. Like most work on authoritarian legality, studies of Chinese lawyers have held liberal-democratic legal systems as the implicit (or even explicit) benchmark. Although early work understandably examines how a newer legal system incorporates Western norms, I join a growing group of scholars who suggest that we should increasingly interrogate whether the benchmark will remain the same moving forward.<sup>24</sup> As China exerts more influence on other parts of the world, might Chinese practices instead become the dominant (or at least an alternative) script?

China-focused commentators have already begun discussing whether the rules of the game are changing. In the international economic law space, most of these debates are pitched in terms of whether the Chinese "state" is

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*Boundary-Blurring: International and Local Law Firms in China's Corporate Market*, 42 LAW & SOC. REV. 771 (2008); Ethan Michelson, *Global Institutions, Indigenous Meaning: Lessons from Chinese Law for the New Institutionalism* (Buffalo Legal Studies Research Paper, Paper No. 2006-004, 2005), <https://ssrn.com/abstract=876472>.

20. See, e.g., Liu, *supra* note 19, at 786-87 ("From minor issues such as document settings and Web site design to more substantive aspects such as billing method and management structure . . . Chinese law firms want to look similar to the Anglo-American mega-law firms in almost every way.").

21. For a definition of political liberalism, see FIGHTING FOR POLITICAL FREEDOM: COMPARATIVE STUDIES OF THE LEGAL COMPLEX AND POLITICAL LIBERALISM 10-12 (Terence C. Halliday, Lucien Karpik & Malcolm Feeley, eds., 2007).

22. For a recent summary of this literature, see Rachel E. Stern, *Activist Lawyers in Post-Tiananmen China*, 42 LAW & SOC. INQUIRY 234 (2017).

23. See Rachel E. Stern & Su Li, *The Outpost Office: How International Law Firms Approach the China Market*, 41 LAW & SOC. INQUIRY 184 (2016); Sida Liu, *Client Influence and the Contingency of Professionalism: The Work of Elite Corporate Lawyers in China*, 40 LAW & SOC. REV. 751 (2006); Liu, *supra* note 19; John Bliss, *Becoming Global Lawyers: A Comparative Study of Civic Professionalism*, LAW & SOC. INQUIRY (First View), <https://doi.org/10.1017/lsi.2020.30>.

24. See, e.g., Benjamin L. Liebman, *Authoritarian Justice in China: Is There a "Chinese Model"?*, in THE BEIJING CONSENSUS? HOW CHINA HAS CHANGED WESTERN IDEAS OF LAW AND ECONOMIC DEVELOPMENT 226 (discussing "what may constitute a Chinese Model of legal development, particularly in the context of the courts"); John Bliss, *supra* note 23, at 3 ("As the Chinese system of authoritarian governance and legality gains global prominence, the Chinese model of legal professionalism cannot be dismissed merely as a target for the diffusion of American norms."); Stern & Liu, *supra* note 11, at 244 ("[T]he relationship between the Chinese state and the legal profession is worth watching closely as it may inspire imitation.").

establishing a new economic order and the potential structure of that order.<sup>25</sup> This interest in the forest instead of the trees is not incorrect, but it shifts attention away from the sources of norms that would underlie any potential new order—such as the day-to-day work of Chinese lawyers in initiatives like BRI. As neo-institutional sociologists Paul DiMaggio and Walter Powell point out, isomorphism occurs thanks in large part to the diffusion of professionals and professional ideas.<sup>26</sup> Recognizing the power dynamics underlying this diffusion, sociologist Marion Fourcade describes how certain professional ideas come to dominate both nationally and internationally,<sup>27</sup> and build what political theorist David Grewal has called “network power.”<sup>28</sup> In recent history, the script for transnational corporate law practice has been written by non-Chinese authors, with many scholars assuming that “global legal expertise is produced in developed countries or at a transnational level by a small group of dominant legal elite.”<sup>29</sup>

For example, sociolegal scholars Yves Dezalay and Bryant Garth illustrate how the American litigation model became the standard in international commercial arbitration, which lends domestic and international legitimacy to that model.<sup>30</sup> Columbia law professor Katharina Pistor has described common-law lawyers from the United Kingdom and the United States as “master coders” that bring their views of corporate law to the rest of the world.<sup>31</sup> In the context of international development, American lawyers have long been involved in helping to export the “rule of law” and its accompanying institutions.<sup>32</sup> If the script is set by countries wielding power and influence, however, then dominant scripts may change as states’ respective influences wax and wane. This is especially relevant in light of contemporary China, whose rapid rise and alternative political-economic structures might now challenge the “taken-for-granted assumptions”<sup>33</sup> that have undergirded the post-World War II international order.

Although systemic change occurs slowly, part of this evolution is likely

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25. For a summary of these issues, see Gregory Shaffer & Henry S. Gao, *A New Chinese Economic Order?* (U.C. Irvine School of Law, Research Paper No. 2019-21), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3370452](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3370452).

26. Paul J. DiMaggio & Walter W. Powell, *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields*, 48 AM. SOC. REV. 147 (1983).

27. Marion Fourcade, *The Construction of a Global Profession: The Transnationalization of Economics*, 112 AM. J. SOCIO. 145 (2006).

28. DAVID SINGH GREWAL, NETWORK POWER: THE SOCIAL DYNAMICS OF GLOBALIZATION (2008).

29. Sida Liu, *The Legal Profession as a Social Process: A Theory on Lawyers and Globalization*, 38 LAW & SOC. INQUIRY 670, 682-83 (2013).

30. YVES DEZALAY & BRYANT G. GARTH, DEALING IN VIRTUE: INTERNATIONAL COMMERCIAL ARBITRATION AND THE CONSTRUCTION OF A TRANSNATIONAL LEGAL ORDER (1996).

31. KATHARINA PISTOR, THE CODE OF CAPITAL: HOW THE LAW CREATES WEALTH AND INEQUALITY 176-79 (2019).

32. See, e.g., RACHEL KLEINFELD, ADVANCING THE RULE OF LAW ABROAD: NEXT GENERATION REFORM (2012).

33. DiMaggio & Powell, *supra* note 26, at 149 n.5.

the commonplace work of professionals. My focus on the biographies and views of China's BRI lawyers takes seriously work that views the globalizing legal profession as a social process that involves both "core" and "emerging" economies.<sup>34</sup> More precisely, I explore whether and how "local law firms and national governments are active participants in or even primary producers of a hybrid legal expertise at the global-local boundary."<sup>35</sup> China's BRI lawyers occupy an instructive position at the boundary of two competing scripts. From one perspective, many are Western-trained and provide legal services developed and modernized by Western states. From another, China's BRI lawyers operate in the shadow of authoritarian law and are encouraged by the state to serve on the frontlines of state-led international development efforts. By studying this group of Western-trained lawyers with Chinese characteristics, this article sheds light on how professionals are involved in the everyday creation and maintenance of scripts, norms, and rituals. Part II begins to unpack one such script from the perspective of the Chinese state.

## II. CHINA'S POLICY PUSH FOR DOMESTIC LAWYERS WITH FOREIGN LEGAL EXPERTISE<sup>36</sup>

BRI lawyers operate against the backdrop of a state-led script that actively encourages the development of foreign-related legal expertise among Chinese lawyers and law firms. Understanding the role of China's BRI lawyers thus first requires an understanding of the context from which these Experts emerged. As the Chinese state advances an ambitious foreign-policy agenda and Chinese companies expand beyond China's borders, the expectation is that these companies will increasingly rely on Chinese legal-service providers instead of foreign alternatives. While it would be incorrect to say that the growing number of Chinese lawyers with foreign-related legal expertise is driven *solely* by top-down policy efforts, I suggest that the state's policy emphases serve as an important script for BRI lawyers and their foreign legal services-focused colleagues. This Part focuses on central-level policy efforts by the MoJ and the ACLA,<sup>37</sup> the two actors directly tasked with overseeing the Chinese bar. These policies demonstrate the importance placed on the legal profession by the state and implicate lawyers in the political dimensions of

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34. See Liu, *supra* note 29, at 683; see also Bliss, *supra* note 23, at 3 (drawing on semi-structured interviews with Shanghai corporate lawyers to develop a "pragmatic professionalism" model to describe Chinese lawyers' professional identities); David B. Wilkins, David M. Trubek & Bryon Fong, *Globalization, Lawyers, and Emerging Economies: The Rise, Transformation, and Significance of the New Corporate Legal Ecosystem in India, Brazil, and China*, 61 HARV. INTL. L.J. 281 (2020) (studying the distinct corporate legal ecosystems of India, Brazil, and China and emphasizing the need to observe how different ecosystems from the Global South may reshape the global legal-services market).

35. Liu, *supra* note 29, at 683.

36. Part II is adapted from Lawrence J. Liu, *The Role of PRC Lawyers and Law Firms in Chinese Outbound Initiatives* (China, Law and Development Project Research Brief No. 7/2019), <https://cld.web.ox.ac.uk/file/430561>.

37. Note that ACLA has close ties to the state. ACLA's Charter, for instance, notes how it should firmly support Xi Jinping and the leadership of the CCP, and how it is overseen by both the Party and the Ministry of Justice. See Stern & Liu, *supra* note 11, at 231-32.



China's outbound efforts.

Official efforts to cultivate a general group of Chinese cross-border legal experts predate the beginning of President Xi's Belt and Road Initiative. On August 31, 2012, shortly after the 18th National Congress of the CCP, ACLA announced its intentions to expand the ability of Chinese lawyers to provide foreign-related legal services.<sup>38</sup> As part of these efforts, ACLA and the MoJ jointly selected a talent pool of 300 lawyers with foreign-related legal expertise. Over four years, with trainings held both domestically and abroad, the program aimed to produce 120 lawyers proficient in outbound direct investment corporate transactional work, 150 lawyers with expertise in WTO rules and dispute settlement, and 30 lawyers specializing in energy, ocean, and air rights.<sup>39</sup> In 2018, ACLA and the MoJ released an updated list of foreign-related legal services experts that included 1,000 names from all Chinese provinces.<sup>40</sup> Similar to the first cohort of experts, these lawyers will receive five years of targeted training at home and abroad to further develop their foreign-related legal expertise. To help prepare lawyers to serve the growing number of Chinese companies going abroad, this domestic training program aspires to teach lawyers about topics such as international trade and dispute resolution, international investment risk, and intellectual property law. For example, and as a result of these initiatives, the Beijing ACLA strengthened its foreign-related legal services' training through the "Tens of Millions Set Sail" (扬帆百千万) training program, established in September 2013.<sup>41</sup> As described by one lawyer coming back from trainings in England, these opportunities not only enable Chinese lawyers to better serve their clients, but have also "opened [their] horizons" to global norms of legal practice.<sup>42</sup>

With the launch of BRI in 2013, cross-border legal experts have been identified as key participants. In fact, ACLA and the MoJ have been explicit about the legal profession's role in advancing the BRI. In 2016, ACLA outlined a programmatic vision for Chinese lawyers' involvement in the BRI organized around five general principles.<sup>43</sup> First, lawyers should serve as good legal

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38. Liu Zhijun, *Dali pozhan shewai lüshi fuwu lingyu zhuoli peiyang shewai lüshi rencai [Vigorously Expanding Foreign Legal Services and the Training of Lawyers with Foreign Legal Expertise]*, ALL CHINA LAWYERS ASSOCIATION (Sept. 3, 2012), <http://www.acla.org.cn/article/page/detailById/12385> [https://perma.cc/X6JY-H442].

39. Lina Zengmin, *Zhuoli peiyang gao suzhi shewai lüshi rencai [Vigorously Training High-Quality Lawyers with Foreign Legal Expertise]*, ALL CHINA LAWYERS ASSOCIATION (Sept. 3, 2012), <http://www.acla.org.cn/article/page/detailById/16192> [https://perma.cc/SXR8-S8RF].

40. Tu Tian & Chen Shu, *Sifabu: Wu nian nei peiyang 1000 ming shewai lüshi lingjun rencai [Ministry of Justice: Training 1000 Foreign Legal Experts Over 5 Years]*, CHINA DAILY (Jan. 3, 2018), [http://www.chinadaily.com.cn/interface/toutiaonew/53002523/2018-01-03/cd\\_35430937.html](http://www.chinadaily.com.cn/interface/toutiaonew/53002523/2018-01-03/cd_35430937.html) [https://perma.cc/D9HM-CPPT].

41. *Beijing shi shewai falü fuwu: diaoyan baogao [Beijing Foreign-Related Legal Services: Research Report]*, BEIJING LAWYERS ASSOCIATION 31 (Feb. 2019), <https://www.beijinglawyers.org.cn/cac/1553242485676.htm> [https://perma.cc/6KUL-G5WV].

42. Tu & Chen, *supra* note 40.

43. *Zhongguo lüshi fuwu "yidai yilu" zhanlue jianshe xiangmu qidong [Chinese Attorneys Begin BRI Strategic Construction Project]*, *Xinlang Caijin* [SINA FINANCE] (Sept. 18, 2016),

advisors to the government. Second, lawyers should promote positive economic and trade exchanges. Third, lawyers should help Chinese companies defend their rights and interests abroad. Fourth, lawyers should be promoters of the rule of law with Chinese characteristics. Finally, lawyers should be the “boots on the ground” implementing BRI projects, establishing legal practices abroad, and working with and learning from local legal service providers in host countries.

As BRI-specific efforts continue to gain momentum, ACLA has produced a number of Chinese-language reports and books on BRI legal-service provisions, while also recognizing lawyers who are especially adept at handling BRI projects. One such publication is a book series on BRI legal services and dispute resolution called “Foreign Legal Experts in Action” (涉外律师在行动). Another major ACLA publication is the “Legal Environment Reports for Countries Along the BRI” (一带一路沿线国家法律环境国别报告). Compiled into four lengthy tomes, the Legal Environment Reports were co-written by domestic and foreign lawyers and touch on legal issues in more than 100 countries.<sup>44</sup> These volumes discuss in detail the laws, policies, and regulations that foreign investors will likely encounter. For BRI lawyers and their potential clients, the volumes also help identify the legal risks and considerations companies should be aware of before engaging in outbound projects. Simultaneously with the release of the first set of Legal Environment Reports in August 2017, ACLA announced its “BRI and Cross-Border Legal Experts Talent Pool” (一带一路跨境人才库) to recognize individuals who contributed to writing the reports and who can serve as go-to BRI legal service providers.

This goal of cultivating a group of PRC cross-border legal experts is not limited to organizations overseeing the bar. The MoJ, the Ministry of Foreign Affairs, the Ministry of Commerce, and the State Council collectively issued a set of opinions on the development of China’s foreign-related legal services at the end of 2016.<sup>45</sup> These opinions lay out the state’s ongoing commitment to creating a “large-scale,” “strong,” and “high-quality” team of domestic lawyers with foreign legal expertise that will contribute to BRI projects, help Chinese companies “go out,” and support Chinese diplomatic efforts. In addition to outlining a government strategy, the opinions also call on “relevant professional associations” and “lawyer associations” to support state-led efforts. As outlined previously, all indications suggest that ACLA has taken this call to action seriously.

The state’s top-down approach to Chinese foreign-related lawyering

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<http://finance.sina.com.cn/roll/2016-09-18/doc-ifyvyrit2720847.shtml> [<https://perma.cc/2T2Y-GU8C>].

44. Zhu Jian, “Yidai yilu” yanxian guojia falü huanjing guobie bao gao (san, si juan) fabu [*“Belt and Road” Legal Environment Reports for Countries Along the Belt and Road (Third, Fourth Volumes) Are Released*], MINISTRY OF JUST. (Apr. 24, 2019), [http://www.moj.gov.cn/department/content/2019-04/24/613\\_233709.html](http://www.moj.gov.cn/department/content/2019-04/24/613_233709.html) [<https://perma.cc/GE9Z-ECAB>].

45. *Opinions Concerning the Development of Foreign-Related Legal Services*, *supra* note 7.

introduces a state-led script that ties legal practice and expertise to government policies and service to the nation. The emphasis on foreign-related legal service provision highlights the intimate link the state sees between Chinese lawyers and its ambitious foreign policy goals. Rather than analyzing BRI lawyering solely as efforts by individual practitioners then, foreign-related legal services should also be considered in light of the importance placed on the profession by state and Party organs.

### III. DATA AND METHODS

With an understanding of the theoretical and political backdrop, the article now turns to the lawyers and their experiences. This article relies on two main sources of primary data, in addition to public records including news coverage, essays, and government documents. The first is the BRI Legal Experts database, an original database that contains biographical data for the eighty-four Chinese attorneys formally recognized by the ACLA as “BRI and Cross-Border Legal Experts” in 2017.<sup>46</sup> Biographical information for each attorney is drawn from two main sources: lawyers’ online law firm profiles and write-ups about the lawyers in the ACLA online yearbook. I supplement the data with news articles describing the experts or media interviews with the experts, when available. Despite variation in how much information was available for each lawyer, I collected consistent data on gender, educational background, areas of specialization, and involvement with local bar associations. For lawyers working in Beijing and Shanghai, I also have perfect information on party membership since these cities’ bar association websites have directories with party membership for all admitted and active lawyers.

Second, using the contact information I acquired from these attorneys’ online profiles, I conducted semi-structured interviews with ten lawyers in the database, as well as one additional interview with an associate of a lawyer in the database. These interviews occurred in Beijing and Shanghai during the summer and fall of 2019, and lasted between thirty minutes and two hours.<sup>47</sup> Beijing and Shanghai were chosen as the primary field sites since these cities feature China’s most robust legal markets, and in turn, have BRI lawyers with the most extensive experience. Additionally, Beijing and Shanghai boast the highest number of 2017 BRI Legal Experts, with a noticeable drop-off in other Chinese provinces besides Guangdong. During these interviews, I asked questions about how Chinese lawyers became involved with, and approach their role in, BRI.

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46. Although the list also includes non-Chinese lawyers, this project focuses only on Chinese lawyers working for domestic law firms.

47. See Appendix for a full list of interviewees.

## IV. A PORTRAIT OF THE CHINESE BRI LEGAL EXPERT

*A. Characteristics and Career Paths*

Like most cross-border legal service providers, BRI Legal Experts' practice areas can be divided into five general buckets: (1) international trade; (2) outbound direct investment; (3) construction and infrastructure development; (4) intellectual-property protection; and (5) dispute resolution (especially arbitration).<sup>48</sup> Although I cannot say whether BRI lawyers represent state-owned enterprises more often than private enterprises, or vice versa, available information on law-firm websites suggests that they represent both state-owned and private Chinese companies. What is more theoretically compelling than practice areas or clientele, however, are the backgrounds of the people performing this work, the knowledge they bring to bear, and why they are involved in these projects.<sup>49</sup> Before turning to the types of knowledge deployed by BRI lawyers in their practices, this Section focuses on the demographic characteristics of these lawyers and their career paths. I begin by presenting descriptive data on the eighty-four lawyers recognized by the ACLA as BRI Legal Experts. Then, I present three illustrative vignettes of BRI Legal Experts Cheng Jun, Guo Fang, and Zhang Jianwu to help illustrate the career trajectory of the BRI Legal Expert.

The BRI and Cross-Border Legal Experts talent pool was announced by ACLA in August 2017, along with the publication of the Legal Environment Reports. In recognizing this group, ACLA aimed to “bring together law firms and outstanding lawyers providing legal services for BRI” and to establish a “cross-border network of BRI legal service providers.”<sup>50</sup> This talent pool honored 205 Chinese and foreign lawyers spanning 143 different law firms. Eighty-four practice in Mainland China, and they set up shop for fifty-seven different law firms across twenty-one Chinese provinces. The talent pool of foreign BRI lawyers includes one to six lawyers each from forty-three different countries along the Belt and Road.

The data on domestic Chinese lawyers suggests that the BRI Legal Expert is a highly educated male with extensive foreign experiences and strong ties to the state and the CCP.<sup>51</sup> Although only slightly more than half of the BRI Legal

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48. Interview SH-02-2019; *see also* Yu, *supra* note 8, at 8-11 (describing the practice areas that are and will likely be impacted by BRI based on a survey of fifteen Chinese law firms in 2016).

49. I do not want to understate the importance of understanding lawyers' work and their clients, which has been fundamental to many studies of the legal profession. That said, my data is best equipped to shed light on who these lawyers are and how they approach their work, which speaks more directly to questions about knowledge production and its diffusion. For a more detailed account of the practice areas that BRI lawyers are involved in, *see* Yu, *supra* note 8.

50. Cai Liyan, *Quanguo liuxie gongbu “yidai yilu” kuajing lüshi rencai ku mingdan [ACLA Announces the BRI and Cross-Border Legal Experts Talent Pool]*, ALL CHINA LAWYERS ASSOCIATION (Aug. 2, 2017), <http://www.acla.org.cn/article/page/detailById/20658> [<https://perma.cc/M5GA-L3T9>].

51. *See infra* Table 1. Note that I was only able to collect information on eighty-three of the eighty-four lawyers, since I could not find the exact 王磊 via Google or Baidu searches.

Experts attended a university with a top-twenty ranked law school, an overwhelming majority pursued advanced degrees, with 58.9% of those doing so abroad. Although information on BRI Legal Experts' membership in the CCP is not widely available, websites for the Beijing and Shanghai ACLA have directories with party membership for every lawyer in those cities. 50% of BRI Legal Experts from Beijing are CCP members and 58.3% of BRI Legal Experts from Shanghai are CCP members, both of which exceed the proportion of CCP lawyers among the entire lawyer population and for each city respectively.<sup>52</sup> BRI Legal Experts are also predominantly male, with the proportion of female lawyers tracking closely the proportion in the legal profession writ large in 2013.<sup>53</sup>

All the BRI Legal Experts work for domestic Chinese law firms, and the majority work in Beijing, Shanghai, or Guangdong (54.2%). This distribution is unsurprising given the size of the legal markets in those three provinces and their status as hubs of multinational activity.<sup>54</sup> A number of provinces are not represented on this list, including Gansu, Guizhou, Hainan, Hunan, Jilin, Jiangxi, Ningxia, Shandong, and Shanxi, which points to a level of exclusiveness not present in other ACLA recognitions such as the “1,000 National Foreign-Related Legal Service Experts” (全国千名涉外律师领军人才)<sup>55</sup> named in 2018 or the National Outstanding Lawyer Award (全国优秀律师奖).<sup>56</sup> Although the exclusion of certain provinces may not be surprising given the small number of honorees, it is perhaps more surprising that so many lawyers practice at the same law firm. At the time of recognition, nine lawyers worked for Zhonglun (eleven percent), five for Jintiancheng (six percent), and four each at Duan Duan and Grandall. A handful of lawyers have even moved to these law firms since 2017, with three moves to Zhonglun, three moves to Grandall, and one move to Jintiancheng by the time of data collection in spring 2019—further consolidating the BRI strength at these firms.

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52. As of the end of 2017, thirty-two percent of all Chinese lawyers were CCP Members. Tang Lan, *Woguo dangyuan lüshi renshu yi tupo 11.7 wan ren [Number of Party Lawyers Exceeds 117,000]*, XINHUA (July 2, 2018), [http://www.xinhuanet.com/legal/2018-07/02/c\\_1123067118.htm](http://www.xinhuanet.com/legal/2018-07/02/c_1123067118.htm) [<https://perma.cc/GPP5-KJ4H>]. 29.8% of Beijing lawyers were CCP members as of the end of 2017. Yang Xuanxuan, *Beijing shi sifa ju: jiaqiang lüshi hangye dangjian [Beijing MoJ: Improving Party-Building Among the Legal Profession]*, VOICE OF CHINA (Dec. 14, 2018) [http://china.cnr.cn/gdgg/20181214/t20181214\\_524449875.shtml](http://china.cnr.cn/gdgg/20181214/t20181214_524449875.shtml) [<https://perma.cc/KT9K-CJKN>]. As of the end of 2016, 41.6% of Shanghai lawyers were CCP members. Wu Xinxie, *Zhili daoxiang: lüshi hangye dangjian de shidai dingwei yu kongjian pozhan—yi shanghai weili [Governance Guidance: Time and Space for Party-Building Among the Legal Profession—Taking Shanghai as an Example]*, QIUSHI (July 20, 2018), [http://www.qstheory.cn/lqikan/2018-07/20/c\\_1123156809.htm](http://www.qstheory.cn/lqikan/2018-07/20/c_1123156809.htm) [<https://perma.cc/48JN-3SNH>].

53. In 2013, female lawyers made up twenty-eight percent of the legal profession. ZHONGGUO LÜSHI NIANJIAN [CHINA LAWYERS YEARBOOK] (2013). If one assumes that the proportion of female lawyers has increased since then, this makes the low proportion of women even more noticeable.

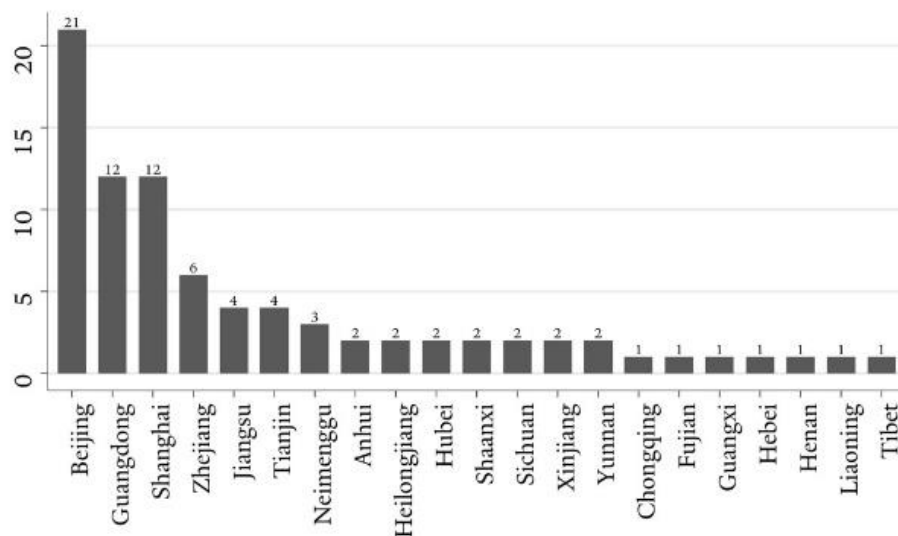
54. See *infra* Figure 1.

55. *Quanguo qianming shewai lüshi rencai ni ruxuan mingdan gongshi [Announcing the List of National 1000 Foreign-Related Legal Service Experts]*, MINISTRY OF JUST. (Aug. 31, 2018), [http://www.moj.gov.cn/Department/content/2018-08/31/613\\_39268.html](http://www.moj.gov.cn/Department/content/2018-08/31/613_39268.html) [<https://perma.cc/2GRC-RNNM>].

56. See Liu & Stern, *supra* note 9 for a discussion of recipients of the National Outstanding Lawyer Award.

As expected, all but one lawyer had a firm page that noted the lawyer's foreign-related legal expertise, with the majority working in corporate practice areas like international investment, M&A, and banking. Although the database skews corporate, some have arbitration and dispute-resolution experience in specific practice areas like labor or property law. For most lawyers, international expertise meant expertise in dealing with developed, Western countries. Using the G20 and G7 as rough proxies for development, only 42 and 51.9% of BRI lawyers mentioned experiences with non-G20 and non-G7 countries, respectively.<sup>57</sup>

**Figure 1: BRI Legal Experts by Province**



**Table 1: BRI and Cross-Border Legal Experts (2017), Descriptive Statistics<sup>58</sup>**

	No. of observations with available data (total n= 83)	Percentage
Male	83	71.1
Non-G20 / G7 Specialty	81	42/51.9
Leadership position in bar association (local, provincial, or national)	82	68.3

57. Although the G7 and G20 include the "EU," given the presence of stand-alone EU member states in the G7 and G20, as well as variation in development among EU member states, I count most EU countries as non-G20 and non-G7 here. Even then, the number of BRI Lawyers with non-G7 and non-G20 experience is quite low.

58. Similar data was gathered for state-adjacent lawyers who received ACLA's National Outstanding Lawyer Award. The patterns are broadly similar. See Liu & Stern, *supra* note 9 at 5, tbl. 1.

Representative Body (NPC, CPPCC) Deputy	82	19.5
Top 20 college <sup>59</sup>	71	57.7
Undergraduate law degree	71	77.5
Advanced degree	83	88
-China Top 20 School	73	26
-Abroad	73	58.9

How does a lawyer become a BRI Legal Expert? Though descriptive statistics provide a rough sketch of the average BRI Legal Expert, they fail to capture the path that someone might take to become a BRI Legal Expert. To better understand the career trajectory of a BRI Legal Expert, I walk through the careers of two male BRI Legal Experts and one female BRI Legal Expert: Cheng Jun, Zhang Jianwu, and Guo Fang. Although any lawyer's journey to a particular point will have distinctive aspects, the similarities and differences between these three capture a wide range of potential paths in various provinces.

The career of BRI Legal Expert Cheng Jun represents a typical example.<sup>60</sup> Cheng earned his LLB from the China Youth University of Political Studies in 1994 and his Chinese lawyer's license in 1995. Cheng received an LLM from Renmin University in 1997 and then studied abroad at the University of Paris. At the Sorbonne, Cheng earned an LLM in business and economic law in 1999 and a doctorate in business law in 2003. Cheng was then admitted to the French bar in 2003. Like other BRI Legal Experts who studied abroad and earned foreign credentials, Cheng decided to return to Mainland China. From April 2005 to November 2007, Cheng was a lawyer at Huanzhong Law Firm in Beijing and a visiting lecturer at Renmin University. He left Huanzhong to become a partner at Zhonglun in November 2007, where he is now an Equity Partner. Cheng has expertise in the mining sector and has represented Chinese mining companies in African states including the Democratic Republic of the Congo, Uganda, and Mozambique. Additionally, he has been part of projects in Kazakhstan, Vietnam, Myanmar, and Kyrgyzstan, among others, and has served both private and state-owned Chinese clients. Cheng speaks Chinese, French, and English.

Female BRI Legal Expert Guo Fang is an example of an expert practicing

59. I coded a Chinese university as "top 20" if it was included in the 2016 Ministry of Education list of top law schools. See *Jiaoyu bu zhongguo gaoxiao faxue yuan paiming mingdan [China Ministry of Education University Law School Rankings]*, SOHU (June 9, 2017), <https://perma.cc/GGQ2-BLSU>.

60. The career summary for Cheng Jun was developed primarily from his public firm page. CHENG Jun, ZHONGLUN, <http://www.zhonglun.com/Content/2016/10-14/1644116115.html> [<https://perma.cc/5QKA-MKGQ>].

outside the hubs of Beijing, Shanghai, and Guangdong.<sup>61</sup> Guo was born in 1980 and received both her LLB and her LLM from Zhejiang University, with a focus on international economic law. Rather than directly entering law-firm life, Guo worked as a legal researcher for the board of directors of Guangsha Holdings Group. Wanting a change of scenery, Guo quit her job and applied for graduate programs abroad. Though she was accepted to the London School of Economics, Guo decided to stay in Zhejiang after her mother fell ill. Needing a new job, Guo found her way to Liuhe Law Firm in October 2008. Although Guo never had the opportunity to study abroad, Liuhe allowed her to go to the University of Houston in 2012 as a visiting scholar to expand her foreign expertise. After her time in Houston, Guo returned to a transformed Zhejiang business environment. Although Liuhe had long emphasized developing foreign-related legal services, the focus had previously been on courting international clients to come to Zhejiang. After 2012, however, more and more Zhejiang-based companies wanted to conduct business abroad. Equipped with an international economic law background and fresh off her time in the United States, Guo's career as a cross-border lawyer took off, and she would become director of Liuhe's international law division and a senior partner before moving to Tiance Law Firm in 2018. Guo continues to represent Zhejiang companies abroad, and she is an expert in foreign M&As and dispute resolution. Guo conducts business in both English and Chinese, and is a CCP member.

If Cheng Jun and Guo Fang offer more representative examples of the BRI Legal Expert, Zhang Jianwu illustrates a more unorthodox career developed in his native Xinjiang.<sup>62</sup> Before pursuing a legal career, Zhang was a local state official. Growing bored of the slow-paced lifestyle, Zhang decided to try his hand at law and earned an LLB from Northwest University of Politics and Law in Xi'an in 1993. Unlike the typical BRI Legal Expert, Zhang did not pursue additional education, whether at home or abroad. After graduating with an LLB, Zhang began practicing at what was then the Urumqi No. 8 Law Firm. Since No. 8 Law Firm remained a state-owned firm throughout his tenure there, Zhang did not enter private practice and cease being a state employee until 2003 when he joined Xinjiang Gonglian Law Firm. Having a long-standing interest in neighboring Central Asia, Zhang began probing for opportunities to provide Xinjiang-Central Asia cross-border legal services as early as 2004. With the blessing of the Urumqi MoJ and Urumqi ACLA, Zhang conducted

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61. The career summary for Guo Fang was developed with information from Guo Fang, T&C LAW FIRM, <http://www.tclawfirm.com> and *Xinhuaï ganen zhan "fang hua"—Hangzhou shi di er jie "shida lüshi xianfeng" xinrui lüshi houxuanren zhi Guo Fang [Thankful for Youth—Hangzhou "Top 10 Vanguard Lawyers" Nominee Guo Fang]*, SOHU (Nov. 3, 2017), [https://www.sohu.com/a/202116649\\_99962832](https://www.sohu.com/a/202116649_99962832) [<https://perma.cc/S2NT-2LTE>].

62. The career summary for Zhang was developed from *Lizu guonei lüshi zhuanYe lingyu, fangyan zhongya shangwu falü fuwu [Establishing a Professional Legal Specialty, a Survey of Central Asia Corporate Legal-Services Provision]*, SOHU (July 3, 2018), [http://www.sohu.com/a/239135433\\_820567](http://www.sohu.com/a/239135433_820567) [<https://perma.cc/NMA2-NPC7>]; and *Zhang Jianwu*, BEIJING YINGKE LAW FIRM, [http://www.yingkelawyer.com/ZYTD/ZYTD\\_View.aspx?v=5f7419550bbe7fca&u=http%3a%2f%2fwww.yingkelawyer.com%2fZYTD%2fLawyer\\_List.aspx](http://www.yingkelawyer.com/ZYTD/ZYTD_View.aspx?v=5f7419550bbe7fca&u=http%3a%2f%2fwww.yingkelawyer.com%2fZYTD%2fLawyer_List.aspx) [<https://perma.cc/K7S8-H9YG>].



research on the foreign-related legal service needs of Xinjiang businesses and became one of the first providers of such services in the province. From there, Zhang and his team became the go-to legal service provider for many companies interested in infrastructure development in Central Asia, including China Road & Bridge Corporation and PetroChina in Kyrgyzstan.

As the central government shifted its attention towards China's western regions, Zhang capitalized on this opportunity to expand his practice. Believing that BRI offered even more opportunities for large projects both in Xinjiang and in Central Asia more generally, Zhang approached Beijing Yingke Law Firm in 2015 with the idea of setting up a branch in Urumqi. Yingke agreed, and Zhang now directs the Urumqi branch and runs legal centers that Yingke has established in Georgia, Kazakhstan, Armenia, Tajikistan, Uzbekistan, and Kyrgyzstan. Despite his move into private practice, Zhang has maintained close ties to the Party-state. In addition to serving as vice president of the Urumqi ACLA and as a legal advisor to the Urumqi People's Congress Standing Committee, he and his legal team are committed to President Xi Jinping's attempts at suppressing contentious activity in the province, and they are often found holding presentations for Xinjiang residents or mitigating thorny disputes between Xinjiang citizens and the state.

### *B. Toolkit*

Equipped with an understanding of China's BRI lawyers from the BRI Legal Experts database, this Section draws on semi-structured interviews with and articles written by the experts to shed light on how they approach the nuts and bolts of BRI legal work. In particular, I focus on the various types of knowledge that these lawyers employ when conducting their work. Chinese lawyers working on BRI projects employ a toolkit beyond the basic analytic and critical thinking skills required of any successful lawyer. The demands of cross-border legal work and of BRI projects, specifically, require China's BRI lawyers to develop a set of skills less similar to their domestic-focused Chinese colleagues and more similar to the cross-border lawyers prevalent in jurisdictions like the United States or the United Kingdom. Despite notable similarities to international counterparts, the unique sociopolitical context in which China's BRI lawyers operate also produces a number of differences. Namely, they often develop particular knowledge and understanding of Chinese state policy, as well as of BRI host countries that carry higher risks and less certain rewards.

This Section presents a description of the BRI lawyer's toolkit and a sense for where these skills originate. In addition to learning about the type of work that BRI lawyers perform, the following sub-Sections highlight lawyers who are well-versed in international best practices, yet cognizant of the political context surrounding BRI projects. The sub-sections are organized around the different types of knowledge that successful BRI lawyers possess:

knowledge of Western legal practice norms, BRI country-specific knowledge, and knowledge of Chinese government policy. These knowledge buckets come together in a way that I argue is unique to Chinese BRI lawyers, and result in a lawyer that is both reminiscent of American lawyers, yet also distinctly Chinese.

*i. Knowledge of Western Legal Norms and Practices*

At first glance, China's BRI lawyers have skills closely resembling those of successful cross-border lawyers in jurisdictions such as the United States, an assertion consistent with ideas of isomorphism and convergence towards existing international norms. Unsurprising, yet practical, the number one skill referred to repeatedly is a strong command of English. Even if English is neither the primary language in China nor in a given BRI country, English remains the default language in cross-border lawyering. For many BRI lawyers, the expectation amounts almost to a prerequisite, and it involves much more than the ability to read the news or engage in conversational pleasantries. According to Mr. Yang Tao, a partner at Jintiancheng's Beijing Office, "English is a foundational skill, and improving one's language abilities requires an accumulation of training over long periods of time, not just a day or two."<sup>63</sup> This skill may be obvious, but deficiency can result in heavy consequences. As explained by BRI Legal Expert Zhang Zhaohui: "In a legal document, misusing even one word can cause huge losses for your client."<sup>64</sup> For those without strong skills in the English language, proficiency in another language can still be useful. One BRI Legal Expert I spoke with, for example, previously studied in France and passed the French bar exam.<sup>65</sup> His French fluency has allowed him to thrive in representing clients engaged with former French colonies in Africa. Moreover, his ties to France even enable him to employ a native Frenchman (with otherwise limited Chinese-language skills) as a valued associate on his team.

Foreign-language ability aside, successful BRI lawyers also tend to be more cognizant of transnational legal practice as established by more "developed" countries. Part of this is a deep familiarity with how cross-border legal practice operates, which means learning the existing rules of the road. Where do Chinese lawyers gain their understanding of Western legal norms? Many interviewees stressed the importance of on-the-job experience and effective mentorship.<sup>66</sup> At the same time, immersive experiences studying abroad or working in foreign companies have been formative for many BRI

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63. *Beijing Foreign-Related Legal Services: Research Report*, *supra* note 41, at 36 (Interview with Yang Tao).

64. Zhang Zhaohui *lǐshì juban* "fǎlǔ yīngyǔ shìzhān" jiǎngzuo [Lawyer Zhang Zhaohui Lecture on "Legal English in Action"], SOHU (Aug. 17, 2016), [http://www.sohu.com/a/110960896\\_398071](http://www.sohu.com/a/110960896_398071) [<https://perma.cc/P2QE-MFM2>].

65. Interview BJ-01-2019.

66. Interviews BJ-02-2019; BJ-03-2019; BJ-04-2019; SH-01-2019; SH-02-2019; SH-03-2019; SH-04-2019.

Legal Experts and have brought both technical and cultural benefits. On the technical front, a number of BRI Legal Experts referred to an “American” way of legal practice. For a Beijing BRI Legal Expert who worked under a U.S.-educated lawyer during his time at Sony’s Beijing headquarters, this meant composing “American-style” legal research memoranda that would be returned to him covered in red ink—a sharp contrast to the rote reports he previously wrote as an in-house lawyer for a state-owned enterprise.<sup>67</sup> In Shanghai, a BRI Legal Expert who once worked at a law firm in the United Kingdom told me that aspiring cross-border lawyers need early and comprehensive exposure to common law, since the international economic system is built upon American and British norms.<sup>68</sup> He would go on to argue that common-law lawyers are also simply more detail-oriented. They develop plans based on specific details, while most Chinese lawyers instead “first start with a principle” and try to work from there.

Foreign training may also provide cultural knowledge about Western legal practice. One BRI Legal Expert who attended graduate school in Boston shared that her time in the United States affected her way of thinking and exposed her more directly to concepts like the “separation of powers.” Although she did not feel equipped to argue that separation of powers or the rule of law are ideas that should be adopted by all Chinese government leaders or policymakers, she did admit that her legal training abroad at least leads her to personally believe in the benefits these would bring.<sup>69</sup> Even those who were not able to study or work outside of China were quick to recognize the skills provided through time spent overseas. For example, a Beijing BRI Legal Expert who did not have the opportunity to study abroad nonetheless remarked that the majority of her team are returnees from the United States or Europe, and she noted the technical and cultural benefits they gained.<sup>70</sup>

This knowledge translates into a vision for the lawyer’s role that bears strong similarities to American lawyers working for large U.S. corporations. Although the attorneys surveyed here are external rather than in-house legal counsel, China’s BRI lawyers nonetheless take on roles similar to the cops, counselors, and entrepreneurs identified by sociolegal scholars Robert Nelson and Laura Beth Nielsen.<sup>71</sup> BRI lawyers serve as the cops policing private and state-owned Chinese enterprises’ overseas conduct to ensure they are aware of, and complying with, the law. I was repeatedly told about the lawyers’ role in conducting proper risk assessments before investment (an especially important task in high-risk BRI countries) and helping to ensure compliance with the law after a project begins. At the same time, BRI lawyers see themselves as more

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67. Interview BJ-05-2019.

68. Interview SH-03-2019.

69. Interview SH-04-2019.

70. Interview BJ-04-2019.

71. Robert L. Nelson & Laura Beth Nielsen, *Cops, Counsel, and Entrepreneurs: Constructing the Role of Inside Counsel in Large Corporations*, 34 *LAW & SOC. REV.* 457 (2000).

than cops, with many BRI Legal Experts discussing their roles as active counselors and entrepreneurs. BRI Legal Experts perform “business investment analyses” that draw on knowledge about politics, economics, and society originating from a “non-legal point of view.”<sup>72</sup> For one BRI Legal Expert, this means encouraging clients to take risks abroad in the same ways Taiwan and Japan once did, or convincing a client to be more respectful of Egyptian pushback to Chinese investment by analogizing their feelings to those of Chinese citizens amidst the flood of foreign direct investment in the 1970s and 1980s.<sup>73</sup> Ultimately, BRI lawyers often give “more advice than legal advice,”<sup>74</sup> and they take pride in working with clients on BRI projects rather than simply working for them.

*ii. Knowledge of BRI Countries*

Although the above skills are often enough when advising Chinese companies investing in countries like the United States or for deals involving investment into China, they only go so far for Chinese clients working in BRI countries. The technical skills largely translate into the BRI context, but the particular conditions of BRI countries require an additional set of knowledge. While each BRI country has its own unique circumstances that should not be generalized away, BRI countries on the whole tend to have less developed or even less stable legal, political, and economic systems. This forces BRI lawyers to account for higher risks than their non-BRI cross-border colleagues and to make decisions about how to advise clients entering countries that may lack laws or regulations on par with international best practices.

Additionally, many Chinese companies involved in BRI projects have more limited understandings of BRI countries relative to more developed countries. Some are new to the outbound investment scene altogether. According to one Beijing BRI Legal Expert’s experiences, there remains a tendency for Chinese companies to try and act as if they are still in China, since that is what they are most familiar with. In these instances, it is not that Chinese companies intentionally fail to comply with laws on taxation, environmental protection, or labor, but that they were unaware of any compliance issues from the outset.<sup>75</sup> Lawyers are expected to help fill their clients’ gaps in knowledge.

Over time, a BRI lawyer can build up experience working on projects in particular BRI countries and develop localized expertise, what one BRI Legal Expert in Shanghai referred to as a “feeling” about a specific country.<sup>76</sup> But

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72. Interview BJ-03-2019.

73. Interview BJ-02-2019.

74. Interview SH-02-2019.

75. Interview BJ-05-2019. BJ-01-2019 also expressed the same feelings about Chinese company compliance with local laws and regulations.

76. Interview SH-02-2019.

how can a BRI lawyer develop understandings about a country in which she has not previously worked—especially given that many companies would not necessarily have invested in BRI countries prior to the initiative’s “official” start in 2013? For some, this is developed in-house by the lawyer or law firm themselves. Most of this initial knowledge is superficial. The same Shanghai BRI Legal Expert who now likes to advise on instinct explained how risk analyses usually start by consulting world rankings.<sup>77</sup> Lawyers may also refer to ACLA-edited volumes like the Legal Environment Reports, which were developed precisely to serve as such a reference tool. This preliminary research at least provides BRI lawyers with a sense of the environments their clients are trying to enter. Still others make a point to visit the country before diving deeply into their legal work. One BRI Legal Expert in Beijing, for instance, imposes the following personal requirement on herself: “If a client wants to go to a country, I also have to go visit myself. Only by visiting the country can I understand the local culture. Lots of issues go beyond the law itself.”<sup>78</sup>

Most of the time, however, obtaining knowledge about BRI countries requires heavy reliance on local counsel to answer specific questions or provide more detailed reports on a country’s political, economic, social, and legal environment. When discussing their experience with local counsel, some made universally positive remarks about their BRI-country counterparts, but others expressed anxiety or exasperation at the challenges of finding competent local counsel.<sup>79</sup> Similar to the ways in which U.S.-trained lawyers once (or perhaps still) feel about their work with Chinese lawyers and law firms, BRI Legal Experts I spoke with highlighted a number of frustrations with lawyers in BRI countries. Some involved the technical practice of law, such as needing to teach local lawyers how to write up documents or conduct proper compliance checks.<sup>80</sup> One Beijing BRI Legal Expert suggested that local counsel in BRI countries are not as creative as American or British lawyers; they can provide direct answers to questions but “cannot come up with” other issues implicated by the question.<sup>81</sup> Other frustrations stem from perceived differences in practice norms. Multiple BRI Legal Experts, for example, complained about slow response times to emails or phone calls<sup>82</sup> or other purported “cultural differences,” like local lawyers’ lack of familiarity with working overtime.<sup>83</sup>

Given the need for high-quality local counsel coupled with concerns about quality control, where do BRI Legal Experts turn to find local counsel?

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77. *Id.*

78. Interview BJ-04-2019.

79. Interviews BJ-01-2019; BJ-05-2019; BJ-01x-2019; SH-01-2019; SH-03-2019. Among those expressing concern, one young associate described the process as “extremely annoying” (非常麻烦) (BJ-01x-2019) and another BRI Legal Expert worried about hiring local counsel “without qualifications” (没有) (BJ-01-2019).

80. The idea of “teaching” (教) or “guiding” (引导) local counsel came up explicitly in conversations with BJ-01-2019, BJ-05-2019, and SH-01-2019.

81. Interview SH-03-2019.

82. Interviews BJ-05-2019; BJ-01x-2019; SH-01-2019; SH-03-2019.

83. Interview BJ-05-2019.

Those I spoke to relied on a mix of personal, in-house, and international contacts. Understandably, the best-case scenario is working with a local counterpart with whom they or their firm worked in the past. Some firms benefit from their relative size and experience and have rationalized this process through internal firmwide lists or those created within particular teams.<sup>84</sup> When in-house contacts are lacking, China's BRI lawyers turn to various internationally compiled lists and rankings. Among those mentioned by lawyers I spoke with are publications such as Chambers, the Legal 500, Asia Legal Business, the International Bar Association, and Lex Mundi.<sup>85</sup> ACLA has also identified a number of potentially promising local counsel, such as the 121 non-Chinese lawyers in the BRI and Cross-Border Legal Experts Talent Pool.

In aggregating knowledge about BRI countries, BRI lawyers perform work that resembles that of American lawyers who entered China in the early days after Reform and Opening. BRI lawyers do their best to sketch initial portraits of the countries their clients are interested in entering, and they recognize a set of risks particular to working in less developed countries. These impressions are often far from sufficient, however, and BRI lawyers must find local counsel they can trust and learn from. My description of these two knowledge buckets supports the idea that China's BRI lawyers are similar to cross-border colleagues from more developed jurisdictions. What makes China's BRI lawyers ultimately distinct, however, is the knowledge they carry about the state's emphasis on BRI, a knowledge bucket that is unpacked in the next Section.

### *iii. Knowledge of Chinese Government Policy*

In addition to knowledge about international practice norms and the particular circumstances of BRI countries, BRI lawyers benefit from a deeper understanding of (or even direct participation in crafting) BRI-related government policies. Many BRI Legal Experts were clear that the state's emphasis on BRI does not have a direct impact on *how* they conduct their legal work, which they saw as a testament to their professionalism. To these lawyers, the technical work implicated by cross-border transactional or litigation work is not affected by whether or not BRI exists as a background policy condition. Their job remains the same: faithfully advance their client's investment objectives through reasoned legal analysis that accounts for the risks involved and potential benefits. And if things go sour, represent their client zealously during the dispute-resolution process.

Even if China's emphasis on BRI does not necessarily affect the technical aspects of their legal work, almost all of the BRI Legal Experts I interviewed

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84. Interviews BJ-05-2019; BJ-06-2019; BJ-01x-2019; SH-01-2019; SH-02-2019; SH-03-2019.

85. Interviews BJ-01-2019; BJ-02-2019; BJ-03-2019; BJ-04-2019; BJ-05-2019; BJ-06-2019; SH-02-2019; SH-03-2019.

acknowledged BRI's impact on the structural environment surrounding their work, especially through its effect on their clients. The politicization of outbound investment and infrastructure has increased the number of potential clients who are trying to do business in BRI countries. In the words of one BRI Legal Expert, lawyers like himself really have “no choice” but to pay more attention to Africa, Southeast Asia, and so on due to “political factors” (政治因素).<sup>86</sup> This recognition of the political backdrop created by BRI was explicitly mentioned by a number of other BRI Legal Experts, with one describing the initiative as a “political slogan” (政治口号)<sup>87</sup> and another as a “government conception” (“政府概念”).<sup>88</sup> One Shanghai BRI Legal Expert even noted that he was proud of being in the ACLA talent pool since it makes him a “political figure” (政治人物).<sup>89</sup> The top-down desire for Chinese companies—both state-owned and private—to “go out” has generated a political context that encourages companies to venture into BRI countries. Since lawyers' work and accompanying advice are tethered to their clients' goals and motivations, many BRI lawyers feel like they should at least be aware of Chinese government policy in order to better advise their clients.

In addition to a general awareness of BRI, its political nature, and its effect on their clients, a few BRI Legal Experts go one step further. These BRI lawyers pay close attention to BRI policies being issued by the state and are sometimes directly involved in shaping them, an indication of their “state-adjacent” role. BRI lawyers may be especially adept at participating in this way, given that they are “within arm's length for the government to consult with” and “are the members of law societies . . . that are often tasked with being advisory or with the expertise of which governmental authorities put forward policy and legislative reforms.”<sup>90</sup> One BRI Legal Expert in Shanghai told me that he has been closely tracking BRI since 2015, even before the more recent emphasis on BRI from the MoJ and ACLA. Working off this in-depth understanding of Chinese government policy, he and his firm have produced large quantities of “BRI research and analysis” on different countries, and they use this research as a selling point to potential clients.<sup>91</sup>

A handful of BRI Legal Experts I interviewed also shared that they contribute to BRI-related policies through various fora, including direct consultations or research conducted through ACLA.<sup>92</sup> When participating in this way, BRI Legal Experts tend to offer opinions that stem from their technical legal expertise. For example, a BRI Legal Expert in Shanghai has been working with colleagues at ACLA on suggestions for the then-

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86. Interview BJ-06-2019.

87. Interview BJ-05-2019.

88. Interview BJ-06-2019.

89. Interview SH-01-2019.

90. Yu, *supra* note 8, at 14.

91. Interview SH-02-2019.

92. Interviews BJ-04-2019; SH-02-2019; SH-03-2019.

forthcoming Foreign Investment Law, which he emphasized to me was an extremely important piece of legislation.<sup>93</sup> Another BRI Legal Expert from Shanghai explained that his advice tends to focus on how the government can employ more objective measures when evaluating the successfulness of a given BRI project.<sup>94</sup> Whether or not these opinions are ultimately adopted by the state is beyond their control, but they appreciate that the state at least listens to their ideas. These forms of political participation resemble the modes of participation associated with state-adjacent professionals more generally and reflect the ways in which the Chinese state solicits and relies on information from legal professionals.<sup>95</sup>

### *C. Motivations*

Despite the skills required and challenges involved in being a successful Chinese BRI lawyer, why are more and more Chinese lawyers engaging in this kind of work? For many of the BRI legal experts I met, their initial foray into BRI legal work was accidental yet inevitable. An overwhelming majority of BRI Legal Experts I spoke with explained that their current involvement in BRI projects resulted naturally from the evolution in their clients' goals and objectives. In other words: "Clients follow the business, and lawyers follow the clients."<sup>96</sup> Many of today's more prominent BRI lawyers began their careers as lawyers with a general practice-area focus on foreign-related legal services work. For many years, this meant representing clients in deals or disputes related to foreign direct investment. As more and more Chinese companies expanded their operations abroad, these lawyers adjusted their work accordingly. With the launch of BRI and increasingly fragile U.S.-China relations, outbound work to BRI countries has only grown. Today, it has gotten to a point where "almost anything that has to do with foreign-related lawyers also has to do with BRI."<sup>97</sup> Reflecting this reality, the same Shanghai BRI Legal Expert provided this pithy remark: "I did not choose BRI legal work, but BRI legal work chose me."<sup>98</sup>

Over extended conversations with BRI Legal Experts, it also becomes clear that being involved with BRI projects can provide meaning beyond more clients and better business. For many, BRI is a policy in which these lawyers take pride and want to see succeed.<sup>99</sup> BRI projects can give China more "influence" around the world and help it develop alliances during a time of

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93. Interview SH-02-2019.

94. Interview SH-03-2019.

95. See Liu & Stern, *supra* note 9, at 8-9 (describing how recipients of China's National Outstanding Lawyer Award provide recommendations to the state through their participatory activities).

96. SOHU, *supra* note 61.

97. Interview SH-02-2019.

98. *Id.*

99. A similar commitment to public service among China's corporate bar is reflected in Professor Bliss's interviews with Chinese lawyers in Shanghai. See Bliss, *supra* note 23, at 14-15.



increasingly strained U.S.-China relations.<sup>100</sup> Some see it as necessary and expected for China to look for ways to extend its markets to other parts of the world, especially since China has seen how this tactic has led to prosperity for the United States.<sup>101</sup> Others note that this is a natural follow-up to and furtherance of what began with China's Reform and Opening.<sup>102</sup> As encapsulated by Yingke Law Firm founding partner Hao Huizhen in a speech to legal practitioners, policymakers, and academics in Macau: "Building the Belt and Road is a grand undertaking that requires the work of great people, and it especially needs lawyers to help and protect its success."<sup>103</sup> Echoing these sentiments, a comprehensive report on the activities of Beijing's cross-border lawyers released by the Beijing ACLA in spring 2019 captures its authors' collective feelings as follows:

Our goals in doing this work are first, to serve our members; and second to energetically influence the country's initiatives and calls to action, and to provide services for the country's overall development .... Everyone should energetically go into action and contribute their own strength into advancing BRI and helping Chinese companies go out.<sup>104</sup>

A lunch conversation I had with one Beijing BRI Legal Expert underscores the passion that motivates some of China's BRI lawyers. In response to a question about whether or not BRI lawyers pay attention to complaints about BRI's transparency or other compliance issues, BJ-01-2019 burst into a diatribe against negative portrayals of BRI outside of China. He complained that Western countries are concerned about any suspected disruptions to the "status quo" even though they treated their own entry into this kind of outbound work years ago as "natural." Moreover, Western concerns about BRI ignore that "the prettiest and best buildings [in BRI countries] are built by Chinese people" and that Chinese companies are some of the few willing to take on risks that Western countries are no longer willing to take. Throughout his explanation, he would repeat the phrase "objectively speaking" and emphasize that his on-the-ground experiences meant he was telling the truth. He ultimately summarized his feelings succinctly: "Do not completely trust the media. Do not completely trust NGOs."

To illustrate this last point, he shared two parallel stories about the

100. Interview SH-03-2019.

101. Interview BJ-06-2019.

102. *Beijing Foreign-Related Legal Services: Research Report*, *supra* note 41, at 39 (Interview with Liu Wenyi) ("Regardless of whether it is BRI or whether it is Reform and Opening, it is all about opening markets."); Huang Ningning, *Shewai lüshi, zongli guanzhu zhe 7 da guanjian ci yu ni xixi xiangguan* [Foreign-Related Lawyers, Always Pay Attention to These 7 Keywords That are Intimately Related], *ZHIHE DONGFANG* (Mar. 17, 2017), <https://perma.cc/32TP-4NX3> ("We know that the pace of China's Reform and Opening has not stopped . . . . From the perspective of foreign-related lawyers, an interconnected global economy pushes Reform and Opening forward.").

103. Hao Huizhen, *Zhongguo lüshi zai "yidai yilu" jianshe zhong de zuoyong yu zuowei* [The Functions and Conduct of Chinese Lawyers in Constructing the Belt and Road], ALL CHINA LAWYERS ASSOCIATION (Oct. 24, 2017), <http://www.acla.org.cn/article/page/detailById/21518> [<https://perma.cc/M7C9-FU3X>].

104. *Beijing Foreign-Related Legal Services: Research Report*, *supra* note 41, at 32.

Democratic Republic of the Congo. In 2013, Amnesty International released a report alleging that a Chinese mining company was employing child labor and called on large multinational companies to boycott this mine. In reality, according to BJ-01-2019, the Chinese company had entered the country, recognized the dangerous practices already occurring before it acquired the mine, and tried to address the issue. Before the Chinese company was able to work through the problems, Amnesty released its report and almost forced the company to abandon the mine. Luckily, he claims that he was able to explain the situation to multinational companies and various news outlets, and the Chinese company did not have to leave. In contrast, he complained that there was no Western media reaction or NGO reports about a French-owned mine that collapsed and killed forty-three people in June 2019, many of whom were also illegally employed.<sup>105</sup> To BJ-01-2019, this reflected the “discrimination and prejudice” that Chinese companies must deal with relative to non-Chinese companies.

This pride in BRI’s aspirations does not necessarily mean that all BRI lawyers believe the policy initiative will succeed in the long run, or that BRI does not require some critical adjustments. As noted previously, a number of BRI Legal Experts are offering advice and suggestions to policymakers on how to improve the BRI. Another BRI Legal Expert I met with acknowledges that “from an investment and return perspective, BRI may not achieve its objectives.”<sup>106</sup> Even the passionate defender of BRI above admitted that Chinese companies need to do a better job with public relations and mass media.<sup>107</sup> A desire for improvements should not be conflated with a lack of support for the policy, however, and lawyers’ views of BRI can shift along with changes in BRI policy. From the vantage point of one young BRI lawyer, he has seen progress in the implementation of BRI that has changed his opinion about the initiative.<sup>108</sup> Initially, he worried that BRI was irresponsibly funneling Chinese money abroad without proper due diligence. After the failures of early projects started coming to light, however, the Chinese government made changes that better account for business and risk considerations, and he is now much more supportive. After all, BRI properly implemented is good for the country and good for future growth.

## CONCLUSION

This article aimed to introduce China’s growing cadre of BRI lawyers, an

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105. Note that this portrayal of events is not accurate. Reuters, for example, reported on the mine collapse and the death of miners illegally working at the site. *Death Toll Rises at Glencore Mine in Congo After Collapse*, REUTERS (June 28, 2019), <https://www.reuters.com/article/us-congo-mining-glencore/death-toll-rises-to-43-at-glencore-mine-in-congo-after-collapse-more-expected-idUSKCN1TT1CT> [<https://perma.cc/JK5D-NDGG>].

106. Interview BJ-05-2019.

107. Interview BJ-01-2019.

108. Interview BJ-01x-2019.

introduction that recognizes not only the types of legal work they are performing, but also the political and social meaning associated with this work. In recent years, the Chinese state has stressed the importance of well-qualified domestic lawyers and the role they have in ensuring the success of BRI. In response, China's BRI lawyers have brought their legal expertise to bear on the complex problems faced by clients venturing into riskier settings. BRI and the particular challenges it poses for Chinese companies have led BRI lawyers to draw from a mix of knowledge buckets that reflect an engagement with both Western and Chinese scripts. On the one hand, this legal advice is rooted in Western legal norms, and China's BRI lawyers appear to approach their work in ways that are strikingly similar to their United States counterparts. China's BRI lawyers rely on their strengths in English and the common law, depend on (but are sometimes dismissive of) local counsel, and take pride in their ability to provide both legal and business counsel. On the other hand, there is something uniquely Chinese about BRI lawyers' understanding of their work, which is informed by the political fanfare that surrounds the BRI. In addition to staying up to date on shifts in BRI policy, many BRI lawyers engage in voluntary activities to share their professional opinions with policymakers. This mix results in state-adjacent Chinese lawyers that are simultaneously situated between the expectations of the Chinese state and that of their Westernized training.

With an initial understanding of this increasingly prominent cross-section of the Chinese legal profession, future research can more directly consider the relationship between BRI lawyers and other Chinese lawyers through an ecological lens.<sup>109</sup> For example, others may situate these lawyers more precisely within a landscape of domestic Chinese corporate law firms that included what Sida Liu and Hongqi Wu once identified as "global generalists," "elite boutiques," local coalitions," and "space rentals."<sup>110</sup> Although my article focused predominantly on external counsel, future work may also compare BRI lawyers to the in-house counsel of Chinese enterprises.<sup>111</sup> The ecology of lawyering also involves interactions with lawyers from beyond China's borders, and scholars may be interested in studying the meeting points between Chinese BRI lawyers and their similarly situated counterparts abroad.<sup>112</sup>

Methodologically, this bottom-up perspective can be applied to other legal and professional settings. As mentioned, future work on BRI lawyers

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109. For two examples of the ecological approach to studying the legal profession, see Sida Liu, David M. Trubek & David B. Wilkins, *Mapping the Ecology of China's Corporate Legal Sector: Globalization and Its Impact on Lawyers and Society*, 3 *ASIAN J. L. & SOC'Y* 273 (2016); and Sida Liu & Hongqi Wu, *The Ecology of Organizational Growth: Chinese Law Firms in the Age of Globalization*, 122 *AM. J. SOCIO.* 798 (2016).

110. See Liu & Wu, *supra* note 109.

111. On Chinese in-house counsel in state-owned enterprises, see Sida Liu, *Palace Wars Over Professional Regulation: In-House Counsel In Chinese State-Owned Enterprises*, 2012 *WIS. L. REV.* 549.

112. This would be in contrast to work that has examined the meeting points between Chinese and foreign lawyers within (as opposed to beyond) China's borders. See, e.g., Liu, *supra* note 19; Stern & Li, *supra* note 23.

should look for opportunities to conduct fieldwork in BRI countries to better understand how BRI legal practice plays out at the Chinese/BRI-country boundary. This would also shed light on how local counsel receive their Chinese counterparts. Moreover, this approach can contribute to an improved understanding of how non-legal Chinese professionals are involved in global norms-setting. As one example, China has announced its intention to be the leader in standards-setting for next-generation technologies like 5G, artificial intelligence, and smart cities.<sup>113</sup> For this policy to succeed, China will need to rely on Chinese engineers, scientists, and entrepreneurs—perhaps similarly to the way it relies on lawyers for the BRI.

What do my findings mean for those interested in China's effect on the international legal order? For now, my portrait of China's BRI lawyers suggests that they still adhere to existing understandings of norms and best practices, and see their work as complementary to the existing system rather than subversive. At the same time, these lawyers do not feel that their status-quo approach conflicts with the state-led desire for outbound investment and infrastructure. As China grows in strength and if other countries react negatively to this expanded power projection, will that balance change? Though my data preliminarily indicates that China's BRI lawyers remain committed to Western modes of practice, new work should continue to monitor and investigate this dynamic. This requires attention not only to the technical components of legal practice, but also to the way China's BRI lawyers talk about and approach their work. This bottom-up view can inform broader debates about the rise of a Chinese alternative model moving forward. If and when China's BRI lawyers begin changing their tune and prioritizing Chinese state scripts over existing norms of transnational practice, this should serve as an alarm bell to those concerned about the future of the American-led international order. Until then, we should remain attentive to the words and actions of on-the-ground actors like China's BRI lawyers, those that make state policy a reality.

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113. See Alexander Chipman Koty, *What is the China Standards 2035 Plan and How Will it Impact Emerging Industries?*, CHINA BRIEFING (July 2, 2020), <https://www.china-briefing.com/news/what-is-china-standards-2035-plan-how-will-it-impact-emerging-technologies-what-is-link-made-in-china-2025-goals> [https://perma.cc/NU9F-8RK9].

## APPENDIX: LIST OF INTERVIEWS WITH BRI LEGAL EXPERTS

<b>Code</b>	<b>City</b>	<b>Gender</b>	<b>Studied Abroad</b>	<b>CCP Member</b>	<b>Date</b>
BJ-01-2019	Beijing	M	Y	N	July 2019
BJ-02-2019	Beijing	F	N	Y	July 2019
BJ-03-2019	Beijing	M	Y	Y	July 2019
BJ-04-2019	Beijing	F	N	Y	July 2019
BJ-05-2019	Beijing	M	Y	Y	Aug. 2019
BJ-06-2019	Beijing	M	N	N	Aug. 2019
BJ-01x-2019	Beijing	M	Unknown	Unknown	Aug. 2019
SH-01-2019	Shanghai	M	N	Y	Nov. 2019
SH-02-2019	Shanghai	M	N	N	Nov. 2019
SH-03-2019	Shanghai	M	Y	Y	Nov. 2019
SH-04-2019	Shanghai	F	Y	Y	Nov. 2019

**Note:** BJ-01x-2019 was a separate interview with an associate working under one of the BRI Legal Experts who was out of town during the date of the interview.