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RESEARCH ARTICLE

Dignity Discourses in Struggles for Basic Legal Freedoms in China

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Abstract

How do dignity discourses shift the framing of struggles for basic legal freedoms? Based on our decade-long empirical research on lawyers and politics in China, we provide a theoretical intervention in a burgeoning socio-legal scholarship on dignity in this article. Drawing inductively from in-depth interviews, we find that a powerful current of dignity consciousness and sentiment, joined by an acute awareness of dignity harms, flows through the community of Chinese activist lawyers. Their dignity discourses can be witnessed and explained in four streams of awareness: (1) dignity experienced as an ideal in juridical, philosophical, and theological idioms; (2) dignity takings experienced indirectly and directly in the property takings of clients' homes, farms, and livelihood; (3) assaults on dignity through property takings of spaces of religious worship; and (4) the takings of professional dignity from the lawyers charged with defending the dignity of others. This article points to the value of dignity framings in the general theory of collective action for basic legal freedoms.

Keywords: dignity; discourse; China; lawyers; property rights; religion

1. Introduction

In 2016, eminent and savagely brutalized lawyer, Gao Zhisheng, issued his personal report on human rights in China.[1] Published by a London-based international non-governmental organization, Christian Solidarity Worldwide, Gao's report spans the landscape of rights abuses he observes across the geographical breadth of China and the spheres of life in which Chinese people live out their lives. In this sobering and emotionally draining account, Gao frames much of his critique in terms of affronts to dignity. He characterizes the experience of his Xinjiang in-laws, who had their ID cards forcibly revoked, as an instance of "incredible humiliation and inconvenience" that offered "a snapshot of the CCP [Chinese Communist Party] government's severe abuse of human dignity and eradication of human rights." He recalls how he was abducted and tortured so severely in Guangdong that he could no longer walk, only shuffle about "on my butt"—a shame he depicts as taking "all my dignity away." He describes shocking poverty in a land of extreme economic inequality. "Poverty-stricken people," he says, confront a cold and remote bureaucracy that compels "extremely poor families" to "put aside their dignity" in order to meet the bare thresholds of physical survival. Hundreds of millions of rural Chinese residents, he says, are confronted by a "political system that deprives them of a complete and decent human life," such that they are treated only as labourers "rather than people with full humanity and dignity." Even Party officials, caught up in the brutality of the Party disciplinary system, are subject to "pervasive use of torture and

[1] Gao (2016).

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humiliation" that disregards "detainees' dignity and basic human rights." Repeatedly, Chinese people "face danger and humiliation" if they "take their civil, political and human rights seriously." They endure "humiliation" and hardship in accessing medical services. If they dare organize to defend workers' rights, they are attacked and provoked to "pervasive discontent, humiliation and fury." [2]

This discourse of dignity, and its counterpoint of humiliation, points to a wider set of questions, both for China and the world. Lying behind the centuries-long struggles of the legal profession for basic legal freedoms appears a value that juxtaposes human dignity and its cognates of respect, humanity, decency, moral autonomy, with its opposites of degradation, humiliation, dehumanization, and the callousness of neglect and the aura of fear that foster the denial of dignity. This article opens an inquiry, stimulated by our empirical research on Chinese lawyers, that examines the value of dignity as concept, ideal, and practice in the fight for basic legal freedoms. The article further considers whether and how the dignity discourses in the Chinese context connect to centuries of legal and political struggles in other times and places, to international normative understandings of ideals for understanding humanity and the institutions that foster or degrade humanity, and to recent developments in social science and interdisciplinary theory on dignity takings and dignity restoration.

2. Dignity in a global frame

It is striking that the dignity framing of China's human rights situation by Gao Zhisheng, a single activist lawyer, resonates with the highest values of the post-World War II international order. In a recent reissuing of the Universal Declaration of Human Rights (UDHR),[3] the Secretary-General of the UN asserts that it has "given people everywhere a powerful tool in the fight against oppression, impunity and affronts to human dignity." The UN High Commissioner for Human Rights reinforces this judgment with his statement that "in perhaps the most resonant and beautiful words of any international agreement, 'all human beings are born free and equal in dignity and rights'." The power of this ideal, now institutionalized in international law, is that "it inspires us to continue working to ensure that all people can gain freedom, equality and dignity"[4]:

> The Preamble to the UDHR affirms:
>
> "*Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, . . . "
>
> "*Whereas* the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom."[5]

And, on this foundation, Article 1 asserts: "All human beings are born free and equal in dignity and rights." This foundational bedrock extends to "economic, social and cultural rights indispensable for his dignity and the free development of his personality"[6] and to

[2] *Ibid*., pp. 15, 25, 27, 30, 38, 41.
[3] United Nations (2015).
[4] *Ibid*., pp. i, v, vii.
[5] *Ibid*., pp. 1–2.
[6] *Ibid*., Art. 22, p. 46.

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the rights of workers to "just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity."[7]

Although these aspirational statements arise from an international agreement among nations, following perhaps the most destructive war in human history, they have far deeper roots. One line of ideational filiation flows back to the European Enlightenment and its assertions of moral autonomy and moral agency of persons as they emerge in liberal moral philosophy.[8] A deeper historical lineage lies in the theological foundations of Judaism and Christianity, which derive their concept of the human from scriptural understandings of "man" formed in the image of God, the doctrine of *imago dei*, and in some lines of Islamic thought on human dignity.[9]

The outworking of this master value of international order can be seen explicitly in UN Conventions that implicitly contrast humane treatment by states of their subjects with their dark opposites, such as the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT), and the subsequent Optional Protocol, which are used as standards for evaluating state behaviour by other states, the UN Committee Against Torture, and the UN Human Rights Council, among others. Furthermore, the value of "dignity" is explicitly championed by one of the most notable organizations of international civil society, Human Rights Watch, which characterizes itself as "an independent, international organization that works as part of a vibrant movement *to uphold dignity and advance the cause of human rights for all.*"[10]

In recent years, these foundational statements and normative standards centred on dignity are leading in new directions within interdisciplinary scholarship on rights and law. A recent article in the *International Political Science Review* takes stock of current scholarship on human rights discourse, finds it wanting, and proposes instead a shift "from human rights to human dignity."[11] This shift, Regilme asserts, would escape certain asymmetries of Global North/Global South engagements, escape from the prescriptiveness of global universalisms and institutions, empower local and emancipatory understandings of what it means to be human in varieties of contexts, and rectify material injustices long institutionalized in the current economic and ideological orders. Whether his argument can be sustained, it is nonetheless instructive to see the call for a shift towards dignity as an idiom of moral and social issues globally.

Far more grounded and proximate to socio-legal studies is the path-breaking work of Bernadette Atuahene on dignity takings and dignity restoration.[12] In her research on apartheid in South Africa, and the land-confiscation harms and restitution debates that punctuated a century of racial conflict, Atuahene concludes that a focus on real property alone insufficiently captured the scope of harms experienced by the victims of apartheid. She proposes that property takings of Black South Africans are embedded in a larger dehumanizing project, namely the takings of the dignity of an entire people. The forced removal of Black South Africans from their homes and farms and communities was not simply a material deprivation. It was a sustained symbolic, psychological, and cultural destruction of identity, community, and attachment to one's place and to one's heritage. If this greater harm were to be acknowledged, and if redress were to be made post apartheid, then dignity takings needed to be balanced by dignity restoration. Not only material compensation or restitution, but a rehumanizing project that treated Black South Africans as persons with voices that must

[7] *Ibid*., Art. 23, p. 48.
[8] Pils (2016).
[9] Muftugil (2017).
[10] Human Rights Watch (2019), emphasis added.
[11] Regilme (2019).
[12] Atuahene (2014); Atuahene (2016).

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be heard, through processes that respect their personhood, through restorations large and small that acknowledged past humiliations and affirmed present and future dignity.

This powerful theoretical frame extends far beyond South Africa, past and present. Historians and anthropologists, legal scholars and sociologists, comparativists and race scholars have found that dignity takings can reframe and find continuities across understandings of the Tulsa race riot of 1921, of Bedouin dispossession in Israel, of women's hereditary rights in eighteenth-century US, of postwar restitution in 1940s France and Belgium, of US dispossession of Hopi Indians, among many other sites the world over.[13]

In a richly insightful analysis, Eva Pils has elaborated how dignity takings were deeply implicated in widespread property takings across China. Pils observes that "evictee protest is laced with references to dignity."[14] "Dignity violations," she says, "are egregious failings to recognize and respect personal dignity ... on the part of the Party-state."[15] Pils argues that the effects of property takings on dignity can be seen in four ways: first, in "denial of say" in courts where evictees have little opportunity to express their grievances or to make the case that takings involve more than material or economic interests; second, in education and thought work that "infantilizes evictees" in a kind of "faux paternalism" where the state knows best and denies their moral autonomy; third, in the fostering of a "climate of fear" that is incompatible with the "autonomy and dignity" of persons; and, fourth, in the degradation of "low-quality people," populations of peasants, or migrant workers, or those from "backward provinces" or from certain religions, who have been "humiliated, persecuted, and marginalized in retaliation for their efforts to obtain justice"[16]—a charge that echoes Gao Zhisheng.[17]

3. On theory and method

Our theoretical intervention in this burgeoning scholarship on dignity draws on our decade-long empirical research on lawyers and basic legal freedoms in China.[18] The empirical data that we collected document the mobilization of a vanguard of criminal defence and activist lawyers who press China's Party-state towards the institutionalization of a liberal legal-political order, despite the difficulties in their legal practice and risks to their personal freedom. These lawyers hold the Chinese state accountable to those standards that have been institutionalized in international law and particularly the values of a moderate state, open civil society, and basic legal freedoms.[19]

To the extent that the literature on political lawyering and basic legal freedoms engages the underlying ideals that mobilize the legal complex, it is to a discourse of rights, such as civil, political, and property rights.[20] In this respect, it parallels the conventional theoretical framing of struggles over legal and social harms in China and their remedies, with the focus on rights. The discourse of rights consciousness, rightful resistance, and rights defence is now familiar in social science studies on China[21] not least because it reflects the complaints of peasants and petitioners,[22] the voices of a growing middle class,[23] and the advocacy of the so-called "rights-defence" (*weiquan*) lawyers.[24]

[13] *Ibid.*
[14] Pils, *supra* note 8, p. 889.
[15] *Ibid.*, p. 890.
[16] *Ibid.*, pp. 894–9.
[17] Gao, *supra* note 1.
[18] Halliday & Liu (2007); Liu & Halliday (2016); Liu, Liang, & Halliday (2014).
[19] Halliday & Karpik (1997).
[20] *Ibid.*; Halliday, Karpik, & Feeley (2012).
[21] O'Brien & Li (2006); Gallagher (2006); Teng (2009); Teng (2013).
[22] Cai (2010); Deng & O'Brien (2013).
[23] Li (2016).
[24] Fu & Cullen (2008); Fu & Cullen (2011).

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What happens, what new understandings do we gain, if we view China's struggles for basic legal freedoms through the lens of dignity rather than rights? It should be anticipated that any master ideal for citizens and activists alike reaches to different audiences, has different resonances, situates itself in different intellectual lineages, and has different organizational and discursive implications. If "dignity" does different conceptual work from "rights" in theory and social life, what work is that? What added value does it offer to socio-legal studies and China studies?

Some basic distinctions are a necessary beginning. If dignity is seen only as a *generic and abstract* concept, essentially underlying other master ideals such as rights and justice, then the theoretical value-added is limited. Why not simply speak about the more immanent values of justice and rights, as existing scholarship already does? If dignity is *imputed* by observers and scholars as an ideal that is repudiated or valorized in China's everyday struggles over basic legal freedoms, then dignity can serve as an umbrella concept under which diverse harms and their redress can be examined in ways that distinctions among discrete types of rights (e.g. civil, political, environmental, or property rights) do not. Yet this imputation remains principally as a scholar's move rather than a subject's expression. If dignity is seen as *a form of expression* or self-understanding by research subjects, however, then scholarly observers are impelled to respect this discourse in fidelity to empirical data on ways of making meaning of subjects' lives and behaviour.

A shift to a dignity framing opens up several new orientations. First, a dignity framing points to a different landscape of harms around which struggles can be associated. It enables us to observe that the harsh treatment and persecution of lawyers by courts, police, and justice bureaus have unexpected affinities with the destruction of churches or arbitrary takings of peasants' land or treatment of labourers and peasants—associations not readily captured by alternative framings such as justice or rights.

Second, a dignity framing reaches to alternative lineages of ideals and traditions. One strand of dignity discourse runs back through a philosophical heritage, arising from the European Enlightenment and exemplified by the French Revolution. Other lineages situate China's struggles for basic legal freedoms within millennia-long theological and ethical traditions, including not only the Judeo-Christian doctrine of *imago dei*, but also China's own Confucian notions of ritual (*li*) and righteousness (*yi*). The meanings of dignity in these lineages are not interchangeable, yet the dignity framing enables a conversation among them.

Third, a dignity framing has different resonances and consequences for mobilization. Whereas a rights discourse speaks to legal and constitutional standards, processes, and protections, a dignity discourse, including that of dignity takings and dignity restoration, goes to the concepts and viscera of personhood or humanity itself. Whereas a rights discourse has a close affinity with that of international human rights organizations and UN bodies, a dignity discourse goes further and resonates with the dense global networks of religious institutions, especially the extensive and interdenominational Christian organizations in national and international civil societies.

In short, dignity's broad appeals give this new framing symbolic power—a power that facilitates collective action in China and internationally beyond the rights discourse. To discover the ways in which a dignity discourse enters the mentalities and understandings of China's activist lawyers, we excavate over 300 interviews with criminal defence and activist lawyers conducted across China in 2005–15,[25] particularly those interviews with notable activist lawyers in Beijing, in order to explore the affinity between the dignity motifs in international law and scholarship and the lived experiences of China's ordinary citizens and activist lawyers. Put another way, are the ongoing struggles within China for

[25] All the interviews are coded in the format of "B1501," in which "B" refers to the location of the interview (i.e. Beijing), "15" refers to the year of the interview (i.e. 2015), and "01" refers to the interview number in the given year and given location.

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the most basic legal freedoms also, and perhaps more fundamentally, a fight for a humanity infused with respect for the dignity of all persons? Although we designed our research project to answer other theoretical questions (e.g. political liberalism and political embeddedness),[26] dignity was an emergent theme in our interviews, echoed strongly by a variety of our lawyer informants.

Drawing inductively from these interviews, we find that a powerful current of dignity consciousness and sentiment, joined by an acute awareness of dignity harms, flows through the community of Chinese activist lawyers. The dignity framing can be witnessed in four streams of awareness: (1) dignity experienced as an ideal in juridical, philosophical, and theological idioms; (2) dignity takings experienced indirectly and directly in the property takings of clients' homes, farms, and livelihood; (3) assaults on dignity through property takings of spaces of religious worship; and (4) the takings of professional dignity from the lawyers charged with defending the dignity of others.

4. Dignity ideals

We systematically asked Chinese activist lawyers to express their ideals. All did so in terms of juridical and philosophical ideals. Many Christian lawyers also did so in terms of theological ideals. Some expressions of dignity accord with the global norms discussed above. In response to the question, "What do you believe are the most fundamental civil rights of citizens in relation to the state?" one lawyer nominated an amalgam of physical freedom and respect:

> The right of the person and the right of personality. The right of the person is physical freedom. If you lose it you don't have anything. The right of personal respect is how others evaluate a person. If this is violated, your position in society cannot be guaranteed. ... It is about dignity and respect. (B1132)

Another asserted that fundamental rights for Chinese people transcend China's particularities of history and culture: "I often tell people that we don't have to emphasize history or culture .... We are all human beings and we have dignity and freedom as human beings. The universal standards are not currently accepted by the government" (B1121). This point of view was repeatedly anchored in the most fundamental of universal rights: "Right now, we are fighting for very basic human rights. It is very important to protect the weak, but without any human rights protection we lack protection of the basic dignity of human beings" (B1133). And property is more than the physical materiality of structures and land. Destruction or expropriation of a home goes beyond material conditions of existence:

> From my perspective there are no property rights in China. The right to live and the right to dignity are most important when you come back from work and you don't find your house but just land, you realize—what are our property rights? There is no proper protection for property rights for the current legal system. The property right or right to live or economic rights are essential for China right now. (B1106)

A commercial lawyer in a leading corporate law firm observed that there is essentially a fundamental mismatch between the orientations of evictees and the government. For the government, it is a matter of authority and compensation. For the people, it is an affront to their humanness:

[26] Liu & Halliday (2011).

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> Rights are not yet protected. The bottom line of property rights is that the people's right of dealing with their own property is not respected. For example, during a public taking the government gives you the number for a just compensation, but it never takes into consideration your preferences not to be moved off the land. The property rights bottom line ignores the dignity of human beings. (B1126)

A disproportionate number of China's notable activist lawyers are Protestant Christians. Many of them express their ideals through biblical stories or theological concepts. The foundational theological expression, known as the *imago dei*, comes from the early chapters of Genesis, the first book of the Hebrew and Christian Bible. As one Christian lawyer stated: "Where do human rights come from? We know that God created man according to his image. I understand that our dignity and rights come from God's image. This doctrine has been well accepted by most Christian human rights lawyers" (B1115).

Protestant Christians infuse this concept of the human as a bearer of the image of God with the belief that freedom of conscience must be defended by lawyers. Here, a distinguished veteran rights lawyer emphasizes the theological underpinnings of his emphasis in practice on process and procedure and the right treatment of a person even in the most restricted circumstances. It is not only an outward respect, but an inner quality that must be acknowledged, preserved, and respected: "Protestants emphasize more the individual right of conscience. This is a reason why so many Christian lawyers—criminal defense lawyers—they want to defend dignity even if you lose physical freedoms" (B1103).

Protection of fundamental property rights held by even the humblest of subjects can be justified by a powerful story from the Bible. A leading Christian activist lawyer expressed his motivation to the calling of a defence lawyer. In answer to the question, "Are there parts of the Bible that have a strong effect on your role as a defence lawyer?" he replied, "There are many." He then recounted the story of the king of Israel who decided he wanted a particular piece of land, a vineyard, for himself.[27] It belonged to a poor person, Naboth. The king offered to provide compensation or equivalent land elsewhere but Naboth said no because this land was an "inheritance of my ancestors." The king seized the property nevertheless. The story concludes with a fierce moral of condemnation of the king for taking advantage of a weak subject. Said the lawyer, "this gave me much insight on public takings without just compensation" (B1125). For 3,000 years, that Middle Eastern story has succinctly captured the ideals of restraint on the power of a ruler and respect for the dignity of a subject otherwise at the mercy of a powerful authority. And it motivated and empowered a Christian activist lawyer in the Middle Kingdom.

5. The interplay between property and dignity takings

Affronts to personal dignity frequently are associated in the undertones of our lawyer interviews about the very many cases in which clients have lost homes and farms, shelter, and livelihood in rhetorical terms resonant with Atuahene's research findings[28] on property and dignity takings in South Africa during apartheid. Three cases illustrate several related aspects of property takings that remove people from their homes.

The first, a civil case from 2011, seems on the surface to be simply an issue of compensation. Yet, a recounting of the story resonates with disgust at degrading methods of expropriation that reached both evictees and their lawyers:

[27] Bible, I Kings chapter 21.

[28] Atuahene (2014), *supra* note 12; Atuahene (2016), *supra* note 12.

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> In the west, in Guizhou, the government is creating a reservoir and they sought to remove families. . . . The compensation was very very little and with that little compensation the families didn't have enough money to move. The government didn't even provide housing for them. The family there tried to protest and petition, but whatever they did they were put into Re-Education through labor camps. (B1129)

Not uncharacteristically, the local government tried to co-opt, then drove away the three activist lawyers from Beijing who went to Guizhou to provide legal assistance: "The government tried to use several ways to get rid of us. They would take us to a nice dinner and try to bribe us to leave. They tried to threaten us and hired gangs to follow us" (B1129).

In a second case, what might have begun and ended as an administrative or civil case became a criminal case—a common sequence of events that brought criminal defence lawyers into the fray:

> It was about a reconstruction in Qingdao. A whole village was under reconstruction. It was on the edge of the city. The peasants were not satisfied with the compensation. . . . The real estate company was so powerful they worked with the government and forced the people to be removed and forced a public taking. (B1110)

The struggle was compounded when one of the villagers sent out a lot of messages on the Internet about the public taking:

> There were lots of pictures. In the pictures you see almost every branch of the government—the police, the fire department, the city patrols, even ambulances. Some pictures captured government officials directing the involuntary public taking. . . . He published his view that there were likely to be bribes. Then he was arrested for libel. (B1110)

Here, lawyers' reputation enters the story:

> The villagers first contacted Teng Biao, one of China's most renowned law professors and frontline activists, and brought in him and me [and another lawyer]. . . . We argued for acquittal on grounds that the computer guy's actions did not constitute libel. From when he was arrested to the time the court started oral argument was 14 months. At the end he was sentenced to 14 months, i.e., time served, so [he] was released immediately. Our argument for acquittal was denied. (B1110)

Commonly, property takings could be seen by evictees as a way of making developers rich at the expense of the poor. Homes and land within or proximate to cities could be redeveloped at enormous profits—economic rewards that flowed to the real-estate developers at higher rates the cheaper the property they could buy, often with collusion of local officials who expected kickbacks.[29] This grievance—the government and the rich exploiting the poor—reinforced a narrative of injustice and inequality. Neither petitions nor lawsuits seemed to avail.

It is not surprising, therefore, that activist lawyers frequently reported that a major focus of their work was to serve petitioners who suffered from land takings. But failed attempts at administrative recourse or petitioning[30] then spilled over into criminal cases to defend "petitioners suffering from illegal arrest for being beaten up while they are petitioning beyond land takings" (B1413). Hence, what might appear on its face as a material

[29] Cai, *supra* note 22; Deng & O'Brien, *supra* note 22; Du (2019).
[30] Minzner (2006).

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deprivation ramifies into a sense of helplessness, an imputation of personal insignificance, and not infrequently the humiliation of physical abuse.

Loss of homes leads to intensified grievance when associated with loss of livelihood—a problem particularly acute for small farmers and peasants. A third case illustrates the interplay of the complexity of public takings already noted above and adds in the further layer of lost capacities to earn a living, even to survive:

> We have been doing a case in in a local village, on the seafront. ... [T]he government wanted to remove all the local residents from the waterfront because of the economic benefits of tourism. At first the problem was just giving local residents low compensation and asking them to move. Then it became violent. ... For the villagers the crucial thing was the land. If removed from the land they could not survive. They used it for their livelihood, farming. (B1005)

Moreover, these villagers had lived on that land for centuries: "They even had land contracts before the PRC [People's Republic of China] from the Qing and Republican periods. And after the PRC the government confirmed their rights several times so they could not just be removed" (B1005). In this case, the connection between people and land was far deeper than any economic or political considerations. It was about the dignity of not only property rights, but also their cultural and historical significance to a people.

6. Religious dignity and property takings

Dignity enters in another modality when property is associated with religious worship. Since many of the activist lawyers in our research were Protestant Christians, we focus here on unofficial Protestant churches.[31] However, given the control and repression on other religious groups in China such as Tibetan Buddhists and Muslims,[32] dignity discourses might equally be applied to temples or mosques.

There have been four particularly prominent instances in which church facilities attracted extensive coverage by domestic and international media. Three of these drew notable activist lawyers from Beijing into the struggles. In the first two, property takings are implicitly assaults on dignity. In the latter two, those takings are explicitly viewed as dignity takings.

The Golden Lampstand Church in Linfen, Shaanxi Province, was erected in 2009 at a cost of approximately RMB 17 million (approximately USD 2.7 million),[33] raised entirely by its approximately 50,000 members. "This was the largest house church I had seen in China," said one of the legal counsel. "It is very beautiful" (B1001). But believers were not allowed to use it and ultimately it was destroyed by the government. The church had multiple smaller satellite unofficial churches in the surrounding area and, in 2009, an incident drew in many activist lawyers to act defence counsel:

> There was a church in Fushan County; their services are held in a shoe factory. On Sept 12, 2009, at night, 2am, all of a sudden, more than 100 people broke into the shoe factory and beat the Christians very heavily. ... Then the bulldozer bulldozed the entire shoe factory. The factory was built on a road so many Christian were very angry and ... when the sun rose the next day, a lot of Christians were gathering on the road by the factory. ... A few days later, the five leaders who built the big house church were arrested. ... Then another 5 people were arrested and sent to

[31] Vala (2018).
[32] Erie (2016).
[33] Haas (2018).

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> Re-Education through Labor. Five got criminal convictions; five got Re-Education through Labor sentences. (B1001)

Here, there is a visceral indication of the compounding of indignities. Destruction of physical property was shocking enough to evoke strong reactions. Beatings, failure to obtain medical support, persecution of church leaders, and, capping it all, arrests and criminal actions against believers who considered themselves victims, all multiplied the sense of grievance among people who only hoped to worship freely.

While the Shouwang Church[34] in Beijing was also an unofficial Protestant church, it contrasted sharply with the Linfen Church, both in its membership, which was highly educated, disproportionately from professional occupations, and young, as well as in the particular form that abrogation of property rights took in the urban context. After meeting for some years in rental properties, the church had grown to nearly 1,000 members and the members raised RMB 20 million to buy an office building for church meetings, charity and educational activities, and church offices. Beijing authorities refused to allow the church to move into the property it had bought and ultimately, very recently, dissolved the church altogether.[35] Ironically, at least one of the prominent rights lawyers defending property rights taking cases elsewhere in China, including the Linfen case, was a member of Shouwang, as were many other younger lawyers. Shouwang's long-standing skirmishes and struggles with the authorities have made it a watchword for international observers for the diminishment of freedom of worship in China,[36] which many Christian believers consider to be a denial of universal rights and dignity.

The third, even more widely publicized attack on church property began with the campaign against the Christian symbol of the cross prominently displayed in Zhejiang Province, an affluent coastal province with a large Christian population.[37] In a province-wide crackdown, provincial and local authorities first demanded that crosses be removed from the front or apex of hundreds of churches. Subsequently, some of Zhejiang's largest churches were demolished. As in other contexts, activist lawyers came flooding into the province to defend Christians, some of whom were themselves arrested (B1522). Lawyers who took on property-taking cases of churches flag varieties of charges brought against church leaders: illegal obtaining of farm land (B1101), illegal gathering (B1521), corruption and larceny by church leaders (B1104), disturbing public order (B1001), as well as breaking public security regulations (B1001). A notable activist Christian lawyer extrapolated theologically about the struggles over crosses in Zhejiang:

> Religious freedom should be granted. If you are not violating social morality you can build the cross the way you like. So it is about freedom. If you remove the cross in a humiliating way, it is also about *dignity*. (B1513, emphasis added)

Dignity ideals and takings feature even more programmatically in a recent high-profile case: the Early Rain Church in Chengdu, Sichuan Province, where eminent church leader and former lawyer and legal academic, Wang Yi,[38] his wife, and elders of the church have been arrested or disappeared, more than 100 church members have been detained, and the church itself closed.[39] While it is too early to know how this case will resolve itself, it is to

[34] See Vala, *supra* note 31, Chapter 8; Jacobs (2011); Davison (2011).

[35] AsiaNews (2019).

[36] For instance, a statement issued by the US Congressional Executive Commission on China: https://www.cecc.gov/publications/commission-analysis/beijing-authorities-harass-and-detain-shouwang-church-members (accessed 20 October 2020).

[37] Cao (2011).

[38] Carter (2018).

[39] For an extended journalistic account of the Early Rain Church, see Johnson (2017).

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be noted that Wang Yi, in his Ninety-Five Theses,[40] published in 2018,[41] employs the language of humanhood and dignity in contrast to slavery and humiliation in his theological depiction of Chinese people:

> 4. In the depths of our souls there is the image of God; thus all Chinese people, like all the peoples of the world, are all equal in the divine values of personhood, dignity, justice, and love.
>
> 5. Therefore in our nature, all humans are personally governed by God. Individuals cannot enslave and humiliate each other. Also, without God's specific authorization and approval, an individual cannot be governed by another person.[42]

Insofar as Christians define freedom of religion in terms of human dignity, the high-profile and mundane attacks on property or worship or church leaders all constitute a form of dignity taking.

We do not have the empirical data to press forward a more extensive case for dignity takings through cultural destruction beyond the case of Christian churches. Yet property and worship are interwoven into a larger fabric in which entire communities of pilgrims and priests have seen centuries-old cultural heritages destroyed in various parts of China. A highly publicized case is the destruction of hundreds of homes and pilgrims' residences at Larung Gar Buddhist Institute in Sichuan Province.[43] Increasing evidence has now accumulated that systematic destruction of Islamic worship and cultural sites is underway at present in Xinjiang Province.[44] In neither the cases of Tibetan Buddhist or Northwest Islamic destruction of real property will these be seen by ethnic peoples or religious adherents as a matter of real property takings alone. As Atuahene demonstrates,[45] decades after Black South Africans saw their homes and community institutions dispossessed or destroyed, the physical acts were a visible signifier of long-lasting affronts to respect and personhood, indeed to the recognition of the victims' humanity itself.

7. Professional dignity and property takings

Layers of dignity are intertwined with varieties of tangible and intangible property. In philosophy, jurisprudence, and theology, there are ideals of dignity that infuse the mentalities of lawyers. Empirically, in lawyers' professional relationships with clients, there are repeated instances of clients whose dispossession or destruction of homes and livelihood is accompanied by an admixture of indignities suffered by their persons. We argue that this intertwining of property rights and dignity endowments extends to lawyers themselves. Lawyers' academic qualifications, their admission to the profession as licensed practitioners, and their continuing licences to practise are all forms of intangible property based on human capital—the equivalent in the service sector to farmland in the agricultural sector.[46] These qualifying warrants are accompanied by ceremonial markers, such as certificates, robes, or even wigs, and by relational marks of respect in their

[40] To Christians familiar with church history, this is a clear evocation of the 95 Theses nailed by Martin Luther on 31 October 1517 to the church door in Wittenberg—an event often thought to be a symbolic marker for the beginning of the Protestant Reformation in early sixteenth-century Europe. For the full text of Wang Yi's 95 theses, see Early Rain Covenant Church (2015).

[41] Starr (2016).

[42] Early Rain Covenant Church, *supra* note 40.

[43] Radio Free Asia (2017).

[44] Kuo (2019); Waters (2019).

[45] Atuahene (2014), *supra* note 12; Atuahene (2016), *supra* note 12.

[46] Abel (1989); Freidson (2001); Larson (1977).

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interrelationships with other personnel in the justice system, such as the police, or the procedures integral to practice, such as those that govern courtroom protocols.[47] And, insofar as professional qualifications and practice are markers of status, any assault on lawyers' intangible and tangible property rights will likely involve an erosion of dignity.

A central theme of lawyers' reports about their struggles for basic legal freedoms on behalf of others emphasizes that they themselves are subject to both property and dignity takings. As crackdowns had intensified from 2011, culminating in the "709 Crackdown" in 2015,[48] lawyers increasingly reported that their lawyer licences were threatened. Sometimes this occurred indirectly, through interventions by a law firm's director at the behest of the local justice bureau, or directly by the justice bureau itself. Sometimes the intensity of pressure was increased when annual renewal of a lawyer's licence was delayed, and even more when the licence was suspended. And, ultimately, a lawyer's licence may be taken away altogether, as so many rights activists have experienced. For the lawyer, as for the peasant who no longer has land to farm, removal of the professional licence adversely affects livelihood and is an assault on his or her professional dignity.

Complaints of criminal defence lawyers about difficulties in practice may be seen as petty humiliations that are disrespectful of rights purportedly guaranteed by the PRC Criminal Procedure Law or Lawyers Law.[49] Being refused permission to see clients, being shunted from one site to another because a client supposedly has been moved, having police sit in meetings with clients, denial of access to evidence and case files, and the many little humiliations attendant upon appearances in court, all contaminate the purity of professional work[50] and degrade professional dignity. All subject lawyers to indignities that make them supplicants for records and processes and meetings that should be theirs by legal and procedural right. These frustrations and humiliations in everyday legal practice were intensified in the harsh crackdown against Falun Gong adherents:

> In a Falun Gong case from Tang Shan at the end of 2008. . . . The defendants were a couple. The whole judicial system—police, procuracy, court—did not allow the lawyer to meet with the defendant during the whole period, even until the court hearing. (B1111)

> In an "evil cult" case . . . when the case reached the prosecutor's office we got to meet with the clients once. When the case reached the court our lawyers' rights to keep an extra file copy of all the documents was restricted. The clerks gave us ridiculous reasons for stopping us [from] copying. For example, there is no electricity. (B1112)

> This was a Falun Gong case in Sichuan. It had many defendants. . . . The most impressive thing was that during the court arguments all the lawyers were kept outside the court. The security guard wanted to search us. The whole hearing lasted for two hours and the lawyers were kept outside the whole time. (B1110)

And then there are the more public acts of disrespect. They may be local—when a lawyer is arrested in the course of a trial. In the prelude to the 709 Crackdown,[51] when hundreds of lawyers were detained and a few were disappeared for months and tortured, Wang Yu, a courageous woman lawyer at the front ranks of rights activism, was targeted in a

[47] Dingwall & Lewis (1983); Ng (2009).
[48] Fu (2018); Liu & Halliday, *supra* note 18; Liu & Halliday (2019); Pils (2018).
[49] Liu & Halliday, *supra* note 18.
[50] Abbott (1981).
[51] Pils, *supra* note 48.

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co-ordinated public attack by national state media in which she was degraded as a lawyer and as a person.[52]

National humiliation ratcheted up dramatically when Wang Yu, Zhang Kai, and other notable activists were coerced into making televised confessions. In Wang Yu's case, video footage was publicly released that captured her distressed reactions when she was told that her 16-year-old son had been seized in Myanmar and brought back to China.[53] In Zhang Kai's case, once released, he retracted his confession.[54] As Pils argues,[55] humiliations persist long after the moment. Lawyers may carry within themselves a sense of shame however wrongfully they have been characterized in the public gaze.

Since many notable activists were driven to legal practice in these high-risk situations by lofty juridical and theological motivations,[56] a degrading attack consistently takes the form of impugning their motivations. They were derided for being more interested in money than in justice. They were accused of having much more interest in their notability than in getting justice for their clients.

The most acute form of debasement occurs when lawyers defending clients in criminal cases are themselves charged with a crime. The wielding of "Big Stick 306" over defence lawyers, with the threat of criminal charges (Article 306 of the PRC Criminal Law) if they were alleged to be complicit in their clients' supposed acts of perjury, is the ultimate professional indignity.[57] The widely publicized trial of Li Zhuang, a Beijing lawyer convicted and imprisoned by a Chongqing court for this crime of lawyer's perjury, served as a sober warning to lawyers nationwide how readily the intangible property of their professional licence and dignity could be wrested away in the collusion of police, procurators, and judges.[58]

Almost every notable activist lawyer has accounts of the threats or reality of physical violence. They may start with threats and then threats can turn into beatings (B1518), inside and outside courts:

> A person died in Re-Education through Labor. ... We went to talk to the victim's family. As the family was about to sign a lawyers' contract, the police broke into the home. At that point I saw the situation was really tense, so I immediately sent out a cell phone message. ... Then they beat us up right there in front of the victim's family. ... We were taken to the police station for five hours. I was locked on the third floor, [another lawyer] was on the first floor. My ear was bleeding, they hurt my wrist, too. (B1117)

Beatings may descend into physical and psychological torture. A notable activist described his coerced descent by contrasting his rational, legal self with the sounds of a wild animal, less than human, unrecognizable even to himself:

> I was detained in the Daxing Detention Centre for 37 days, and the First Beijing Detention Centre for 61 days. ... In the [First] Beijing Detention Centre I was put in the same cell as death penalty people. Besides the interrogation, they also tortured me. They tortured me in an interrogation chair, very tall, very wide. They would put my arms around the back of the chair—because I am short and my arms are short

[52] Halliday (2019).
[53] *Ibid.*
[54] BBC (2016); Phillips (2016); Lau (2016).
[55] Pils, *supra* note 48.
[56] Liu & Halliday, *supra* note 18.
[57] Halliday & Liu, *supra* note 18.
[58] Liu, Liang, & Halliday, *supra* note 18.

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> they forced my arms together. There were handcuffs and they made them very tight around my wrists, so tight that my arms started to swell twice or four times more than usual. When they did this I felt a lot of pain, I felt my muscles and bones were breaking, I could only hear my own screaming and yelling, like you are killing a pig. (B1519)

A lawyer recounted the strong pressure brought on him not to participate in a public event. That specific pressure was nested in a far wider-ranging fear of extreme punitive actions by agents of the Party-state:

> Also, there is the psychological fear—many of my friends have been disappeared. . . . They were all very outspoken. Many think that our law firm is too moderate, not radical enough, too mild. Also, after those lawyers who disappeared were returned, they all kept silent, and that was extremely abnormal. Their silence was a kind of threat to us. Some of the conditions they faced were very harsh. . . . It is such a terror being treated like this. It is getting too sensational. (B1130)

Stories abound of ways in which pressure is exerted on lawyers by frightening or intimidating their families. Families may then pressure their children or siblings to let the difficult cases go:

> I feel bad that I brought a lot of trouble to my mother and wife and brother. They are all harassed. I feel I owe them a lot. E.g., last Wednesday, my mother who is 83, she got a phone call. They said your son is kidnapped. You must prepare money to release him in half an hour. If you don't find the money, we will kill him. She was very scared. . . . My brother and sister told me, why do you have to do so? You can do other work. You can still survive. I feel bad for things like that. (B1003)

The subsequent treatment of lawyers in the 709 Crackdown demonstrates that this fear sharply underestimated the extremes to which the Party-state was prepared to go in order to disrespect, disempower, disappear, and dehumanize lawyers.[59]

8. Conclusion

This article originates from our exploration of an alternative discursive and theoretical frame for understanding the struggles over basic legal freedoms in China. In juxtaposition with the conventional rights discourse, we examine instead the explicit and implicit adoption of a dignity discourse by China's notable activist lawyers and contemplate on the theoretical potential of this new dignity framing for the study of lawyers and politics more broadly.

Empirical evidence from our fieldwork suggests that both clients, especially those represented in administrative and criminal cases, and lawyers themselves express their experiences in clusters of terms that have human dignity at stake, whether implied or explicitly articulated. Notions of respect, freedom, rule-following, human qualities are cognates in the positive valence of dignity. Notions of humiliation, disrespect, dismissal, degradation, and condescension are cognates in a negative valence of dignity, or expressions of indignity. And, beyond words, through the eyes of lawyers, there are actions and practices, ranging from petty indignities to barbaric torture, that detract from their professional status at best and their humanity at worst. Their descriptions of situations in

[59] Pils, *supra* note 48.

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which they are implicated repeatedly evoke indignities as the takings of property slide into takings away of heritage, livelihood, attachment to place, religious expression, and respect for personhood.

But the analysis cannot stop there. Respect and dignity are also relevant for judges, government officials, and even Communist Party members caught up in the Party disciplinary system.[60] Party and state officials are embarrassed by adverse publicity for the ways in which they have acted and may consider themselves vulnerable to symbolic humiliations and tangible losses of promotion opportunities. This suggests that dignity discourses, if widened to embrace the fullness of their cognates and connotation, may be contesting orientations by all actors who fall within the institutions or shadows of China's legal system.

Yet dignity takings as a behavioural phenomenon describes only one side of Atuahene's theoretical formulation.[61] What of dignity restoration? This other side remains underdeveloped in this article, as our data suggests little evidence of restoration, but there are hints of where it might be pursued in the future.

Among clients, evictees, and the defendants in cases that deprive citizens of dignity, there are suggestions from our lawyer informants that greater respect would be felt if their grievances were taken seriously, if their voices were heard, if they had legitimate channels through which they could seek redress, if the material value of their property was acknowledged in tangible compensation, if authorities would recognize that more than material conditions of existence are at stake, if freedoms of association or religion were permitted, if their bodies were sacrosanct from state-sponsored violence, if they would be treated as persons of worth.

Among lawyers, restoration of dignity in everyday work would involve respect both for their professional perquisites and personal safety, and for procedures that adhered to fairness and orderliness in legal process. These lawyers, on the front line of struggles that reach to the essence of legal and political regimes, also recognize that, within China's current legal-political institutional configurations, the more fundamental dignities that underlie basic legal freedoms cannot be restored or newly constructed until some far distant moment. Until that moment of hope arrives, lawyers will continue their fight in various battlegrounds of Chinese politics and society with wounds in their bodies and souls. Ultimately, it is the court of history that will yield the human dignity that basic legal freedoms seek to underwrite.

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[60] Li, *supra* note 23.

[61] Atuahene (2014), *supra* note 12.

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