

Litigating Economic Disputes in Rural China

Shen Mingming and Wang Yuhua

Abstract

Development theory hypothesizes that the higher level of economic development a region has, the more likely that individuals prefer to use formal legal institutions in resolving their disputes. Drawn from a national survey conducted by the Research Center of Contemporary China at Peking University, this paper sets out to test this hypothesis in the context of China's countryside. The analysis shows first that cost concern, legal knowledge, and traditions are the main obstacles for people using the formal legal institutions. In an examination of rural residents' institutional preferences when they have economic disputes, statistical analysis reveals: 1) The speed of economic growth, rather than the level of economic prosperity, reinforces the consolidation of formal legal institutions; 2) Information and social resource factors, including media usage, legal knowledge, and social network, all have positive effects when people decide whether to go to court; 3) When economic prosperity crosses a certain threshold, its marginal effect on people's preferences decreases.

SHEN Mingming is Professor of Political Science and Director of the Research Center of Contemporary China at Peking University. His research interests include environmental policy, legal reform, and survey methodology.

WANG Yuhua is a Ph.D. student of Political Science at the University of Michigan and research assistant at the Research Center of Contemporary China at Peking University. He is interested in China's legal reform, urban political participation, and electoral institutions.

A market economy is a rule of law economy.¹ When China initiated market-oriented reforms in 1978, establishing stable and functional formal legal institutions became an extremely important task of state (re)building. “Rule of law” reforms and their institutionalization have thus been seen as a matter of paramount importance if China is to successfully complete its transition from plan to market and maintain the momentum of high-speed growth, an outcome that would ultimately legitimize the entire reform process.² In recent years, the increasing number of legal disputes brought about by rapid economic development and social change has further highlighted the urgency of the task.

Since the end of the Cultural Revolution, China has made great progress in (re)constructing a formal legal system consistent with the necessities of a market economy.³ Yet, there is still a widespread perception that while many laws may exist on the books, implementation is equally critical to the success of legal reforms.⁴ Although formal legal frameworks have been established, serious deficiencies plague the legal professions⁵ and legal-aid programmes, and could, left unchecked, undermine the dissemination of legal institutions.⁶ The successful institutionalization of the legal reforms depends on the extent to which reformed or new legal institutions can gain societal acceptance. Their survival and consolidation requires widespread legal awareness among the potential users of these institutions, not just “informed disenchantment.”⁷ Although the government has exerted great efforts through waves of nationwide legal educational campaigns, the effectiveness of these efforts needs to be evaluated empirically, particularly in the rural areas where both a lower level of legal knowledge in the population and resource constraints still impede the popularity of formal legal institutions.

In this article, we focus on the effect of economic well-being both at the individual and the community level on popular acceptance of courts as a proper channel of dispute resolution. Specifically, we ask whether people who are engaged in market-oriented activities have stronger preferences for making use of the formal legal channels. We evaluate the role that information diffusion plays in fostering greater awareness of these new (or heavily reformed) institutions. Simply put, we seek to specify the social and economic conditions under which formal legal institutions become the preferred avenues to solve economic disputes.

We focus on rural China, as 70% of the population still lives in the countryside. In many ways, rural China provides a hard test of whether

or not Chinese legal reforms are taking root. Supporters of legal reforms will not be able to claim success unless the formal legal institutions have sufficiently penetrated and been accepted by China's majority, namely rural society. Although rural residents have experienced rapid economic and social changes since 1978, many observers have found that their legal awareness remains weak and their basic legal knowledge is still lacking.⁸ Thus, studying the preferences of rural residents for formal legal institutions is both theoretically significant and has practical policy implications.

We readily acknowledge that our key indicator of the success of formal legal institutions (going to court) has limitations: a litigious society is not necessarily congruent with a rule of law society and legal reform is a multi-faceted enterprise. Yet, in the final analysis, one would be hard-pressed to conclude that any society can establish some model of rule of law unless mechanisms of court adjudication exist, and these mechanisms have gained popular acceptance and trust. We are also careful to test our arguments using not only actual cases of litigation uncovered by the survey, but also by asking all non-disputants their views about dispute resolution based on a series of vignettes of hypothetical cases. Thus, our key dependent variable transcends a narrow conception of rule of law as rule of litigation, and becomes one that captures how society at large understands and trusts institutions that are necessary — albeit not entirely sufficient — for the development of a rule of law society. In the Chinese context, where the political constraints on courts have historically been considerable, where litigation is still rare, and where traditional means of dispute resolution fall short of meeting the challenges of a modern market economy, the preference for courts (or lack thereof) is an important marker of the success of legal reforms and China's ability to make the transition to a meaningful rule of law framework.

The Issue

China's market-oriented economic take-off is broadly seen as a process of modernization. Modernization implies industrialization, economic growth, and increasing social mobility.⁹ Although modernization theory as a series of stages¹⁰ has been criticized for its simplistic and unilinear implications,¹¹ many still hold such a line of thinking in understanding the changes taking place in China.¹² Many policy-makers and scholars

believe that as a part of political development that accompanies economic take-off, the creation and diffusion of legal institutions and greater legal awareness in the population will somehow emerge and be further consolidated when economic prosperity reaches a certain stage. The observable implication which seems to be widely shared is that legal reforms are much more likely to be consolidated and gain societal acceptance in the economically advanced coastal regions than in the more “backward” hinterland regions.

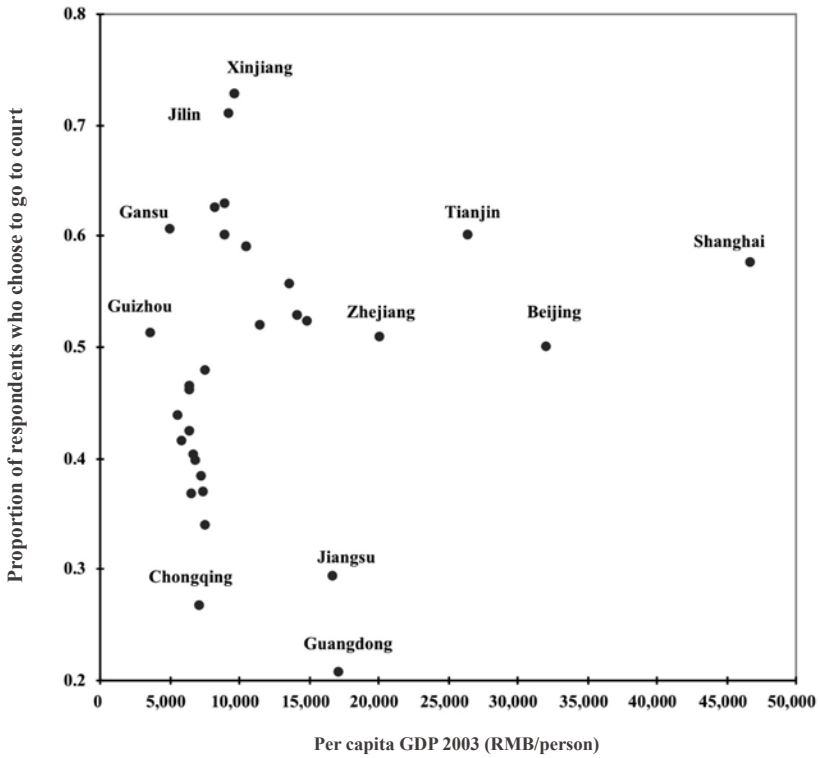
However, when we map our survey data with the regional and provincial economic statistics, no clear pattern is found. In particular, there is no apparent association between the rural residents’ preferences for the formal legal institutions (litigation) and the economic prosperity of the provinces. What is presented in Figure 1 looks troublesome. One finds a strong preference for the formal legal institutions among rural residents in the under-developed provinces like Xinjiang, Jilin, and Gansu, while that in the advanced provinces in coastal areas like Jiangsu and Guangzhou appears rather weak. We wondered whether the noise might be a result of excessive data reduction during the process of aggregation in which most locality variances were lost. However, when we turned to use county-level statistics, no expected association emerged there either.

Such a non-linear relationship is also found with regard to the number of disputes. Figure 2 demonstrates the number of the first trial cases filed in courts at all administrative levels across the country in the last 25 years. Clearly, either cases of all kinds or economic cases continued to increase until 1996, then the increase in both slowed down and the tendency seemed to be downward after 2000 — whether this becomes a trend, however, needs to await more annual data.

With the rapid growth of the economy (Figure 3), economic disputes processed by the Chinese courts have increased steadily throughout the 20-plus years of reform. (See Figure 2)

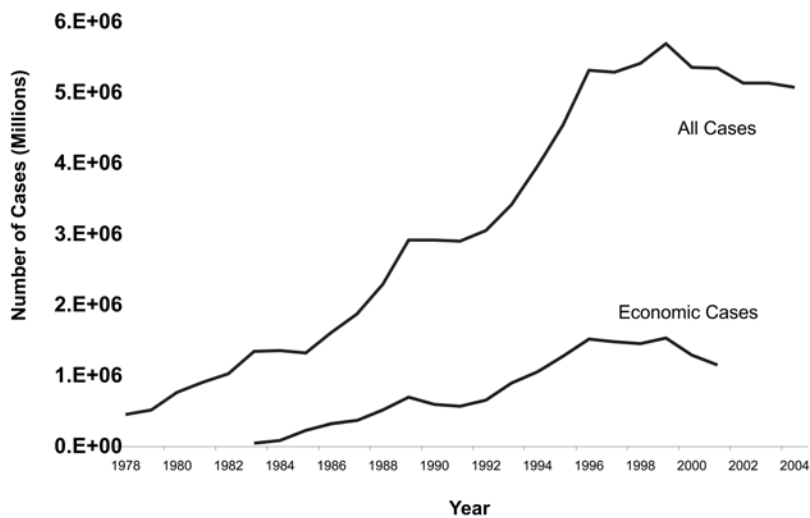
Some interesting similarities of ups and downs in economic growth rate and court cases can be found if one compares Figure 3 with Figure 2. Although both growth rate and number of court cases maintained a rapid increase, one finds that when economic growth slowed down, say in the years 1986, 1990, and 1996, the increase in the number of cases slowed down as well. This raises a question: What better accounts for people’s preference for formal legal institutions? We argue that it is economic growth rate, rather than level of economic development, which is a

Figure 1. Using Litigation to Settle Disputes by Level of Economic Prosperity



Notes: 1. Respondents included here are those with “agricultural *hukou*” only, N=6,116.
 2. Per capita GDP data is derived from the provincial statistics of 2003, as our survey was conducted in that year.
 3. “Proportion of respondents who choose to go to court” = “Respondents who choose to go to court in the province”/ “Total number of respondents from the province.”
 Source: Compiled by mapping our survey data with that of the *China Statistical Yearbook*, 2005.

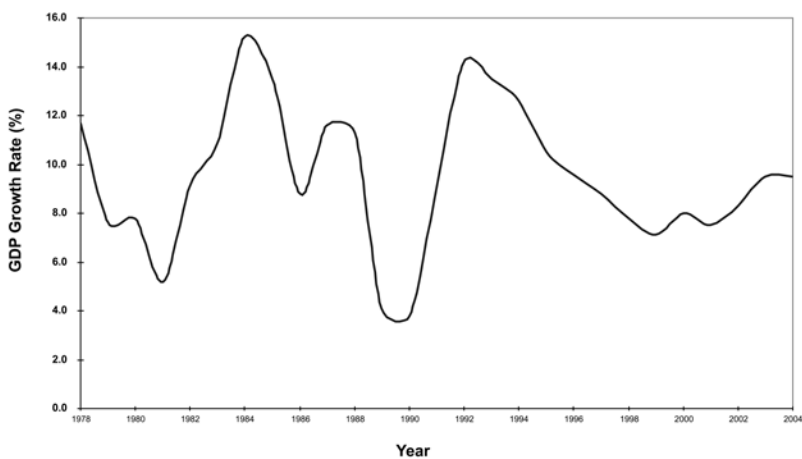
Figure 2. First Trial Cases by Courts in China: 1978–2004



Note: Data on economic cases are available from 1983 to 2002 only.

Source: *China Statistical Yearbook*, 2005.

Figure 3. GDP Growth Rate in China (1978–2004)



Source: *China Statistical Yearbook*, 2005.

stronger predictor of people's preference for the formal legal institutions.

These findings caused us to take a second look at the relationship between economic prosperity and so-called "political modernity". Is the theory developed in Western societies applicable to a developing country like China? Or, further, does the theory itself hold that political modernity depends on economic prosperity?

The scholarly literature on political development offers a rich trove of relevant hypotheses. Students in political science since Aristotle have argued that the prospects for stable and effective formal institutions depend on social and economic development. Classical modernization theorists generally hold a rather deterministic, linear, and positive view of the modernization process.¹³ Critics argue a far more complicated effect of economic development. Przeworski and his colleagues found there is no obvious link between economic development and democratization.¹⁴ The high correlation between economic prosperity and democracy is due to the fact that democracy is more likely to be consolidated in high-income countries. They argue that *transition* to democracy is better explained by economic growth rate in the sense that rapidly growing countries are less stable, and are therefore more prone to change, while countries at a high level of economic development are more likely to endure.

Some new modernization theorists propose a new model of social change in a probabilistic way and argue that modernization is not linear,¹⁵ but that social change is path-dependent.¹⁶ Socio-cultural factors have been emphasized in explaining institutional performance. Social context and history profoundly condition the effectiveness of institutions. Under social context, an important concept was introduced in studying this relationship: social capital, which includes interpersonal trust, norms of reciprocity, and networks.¹⁷

The institutional literature also sheds some light on the questions we seek to address in this paper. We tend to concur with theories of institutions where some parts of institutions are exogenous, while other parts are endogenous to the decisions that actors — who are themselves subject to these institutions — make over time.¹⁸ Consider the current political and social settings in rural China: the coexistence of traditional farming, more recently introduced market institutions, and social networks based on kinship or clans are taken as exogenous. Institutions are not only the rules of the game,¹⁹ but also include beliefs, norms, and conventions that are imposed on actors and difficult to change.²⁰ On the

other hand, the institutions of dispute resolution — courts, mediation, arbitration, to name just a few — are taken as endogenous: these are objects of choice. We assume that human beings have “bounded rationality,” which means “behavior that is adaptive within the constraints imposed both by the external situation and by the capacities of the decision maker.”²¹ Information is therefore of great importance when actors make decisions.

Chinese scholars debating the introduction of rule of law are divided about the role of traditional informal mechanisms of dispute resolution. Some feel very strongly that the informal mechanisms should be replaced entirely by the formal legal institutions, and that otherwise the former becomes an obstacle to the establishment and consolidation of the latter. They insist that using formal legal institutions to solve disputes should be people’s only — or at the very least, first — choice.²² Others argue that the newly introduced formal legal institutions and the traditional modes of dispute resolution can and should coexist, and that it is neither wise nor possible to discard traditional legal institutions and common practice. Given the variety and complexity of disputes in the rural areas, traditional modes of dispute resolution as alternatives to the mode of the formal legal institutions have often worked well.²³

We expect the changes brought about by marketization and rapid economic growth to have great impacts on this process of legal institutional transition. As their lives become more entwined with the market, the preferences of individuals for the new formal legal institutions may grow stronger. With the diffusion of legal knowledge and information, the increasing legal awareness will help consolidate the formal legal institutions. However, we still argue that legal institutional transition is a process during which the old and the new legal institutions coexist; the old ones will slowly start to decay or assume new functions, and the new ones will gradually acquire stability and value.

The Data

The data draw on the ILCR survey described in the introduction. A national probability sample of 7,714 respondents (i.e., completed interviews) was interviewed on a wide range of items related to their attitudes and behaviour in dispute resolution. This paper only focuses on the rural population of 6,116 respondents. By rural population, we mean those who are registered as rural residents.

The PSUs of the sample were counties and county-level units (urban districts). There are 100 county-level units in total, distributed across all 31 provincial-level units of the country. They vary a great deal in terms of the level of economic prosperity and economic growth rates. In addition to the survey data, we also collected county-specific statistics, using data on the local economy in 2003, when the survey was conducted.

To Act or Not to Act

In the questionnaire, respondents were asked a straightforward question about their experience of involvement in economic disputes. However, a rather small proportion of rural respondents (6%) reported that they had ever got involved in any kind of economic disputes in the past 20 years. And of them, 11% reported that they had never taken any action to settle their cases.

Since 94% of the rural respondents had no real experience in economic disputes, we proposed a hypothetical case of debt dispute to them in order to elicit their reactions and preferences.²⁴ It turned out that 75% of the respondents decided they would like to take action to settle the hypothetical dispute, but still a quarter of them would do nothing.

A follow-up question asks why they chose not to take action in both real and hypothetical cases. Reasons provided by the respondents are mainly “Do not know how ...”, “Could not afford the time,” and “Could not afford the money.”

In real cases, the answer “Do not know how ...” accounts for more than 25% of the total mentions, implying a lack of awareness about the resolution mechanisms. The worry about time and money indicates that transaction costs are taken into consideration. It may not be worth bothering with the dispute if the costs in money terms and/or the opportunity costs are too high. Other respondents turned out to lack the will to settle the case because of insufficient self-confidence or fear of losing “face.”

In the hypothetical case, “Do not know how ...” accounts for nearly half of the mentions, many more than those in the real cases. At the same time, cost concerns seem to be more important in their mind than those who have had real experience. Apparently, someone who was actually involved in a dispute would have stronger motivation to seek relevant information about dispute resolution than others who have no

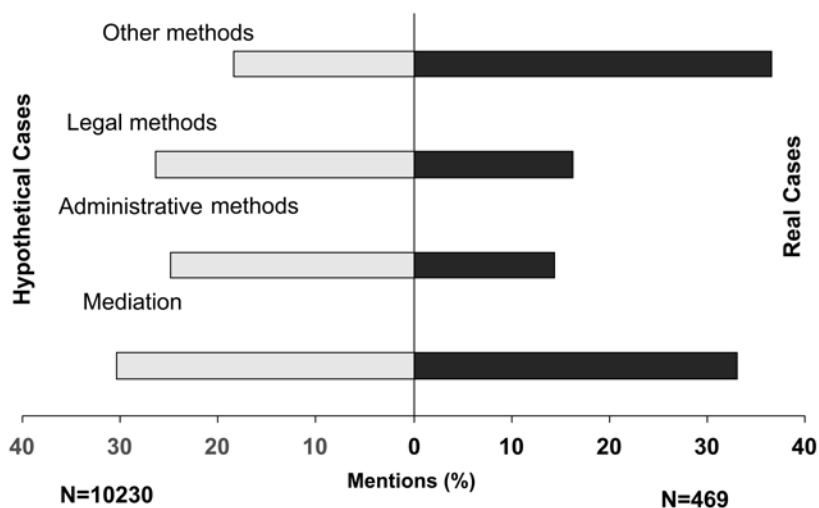
real experience. Cost concerns turned out to be secondary considerations. People seem to take a rather realistic view, even if faced with a hypothetical case. It seems that they made a decision to let go of the dispute based on a rational calculation of the cost and benefit.

Preferences for Modes of Dispute Resolution

If one gets involved in an economic dispute and decides to take action, there is a range of alternative modes for settlement, such as negotiating directly with the other party, mediation, seeking for government intervention, or taking the case to court. In our survey we asked a set of questions to identify the respondents' preferences for modes of dispute resolution and to find out the reasons for their choices.

Figure 4 summarizes the distributions of chosen modes of dispute resolution — since the respondents were allowed to check all options that apply, our calculation is based on mentions. Mediation seems to be the most favourable mode for the respondents in both the real and hypothetical contexts. Also, in the real cases, most of the mentions in “Other modes”²⁵ are in effect in the category of “directly negotiate with

Figure 4. Modes of Dispute Resolution

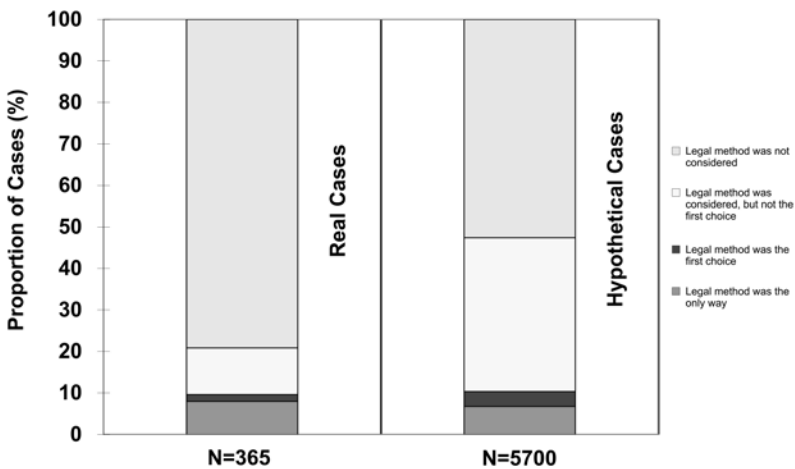


the other party.” Compared to the legal mode, particularly litigation, these traditional modes of dispute resolution are more flexible, cheaper (in terms of both money and time), and certainly less damaging in terms of “face” for both parties.

Legal mode accounts for 16% of the total mentions in the real cases, and 26% in the hypothetical case. The 10 percentage points difference may be because people would think less about the costs of going through formal legal procedures in a hypothetical context than in a real life situation.

To better illustrate the preferences of the rural residents in dealing with disputes, we regrouped our respondents into four categories according to their “distance” from the use of legal mode. The first group includes those who “take legal mode as the only choice,” which implies a strongest preference for the formal legal institutions. The second group refers to those who “choose two or more alternatives but take legal mode as the first choice.” The third group is less in favour of the formal legal institutions — they “choose two or more alternatives, including the legal mode, but do not take it as the first choice.” The last group includes those who have no intention of using legal institutions at all. Applying these criteria to the real and hypothetical cases, we divided our respondents into eight groups. Figure 5 shows the distribution.

Figure 5. Levels of Preference for Formal Legal Institutions

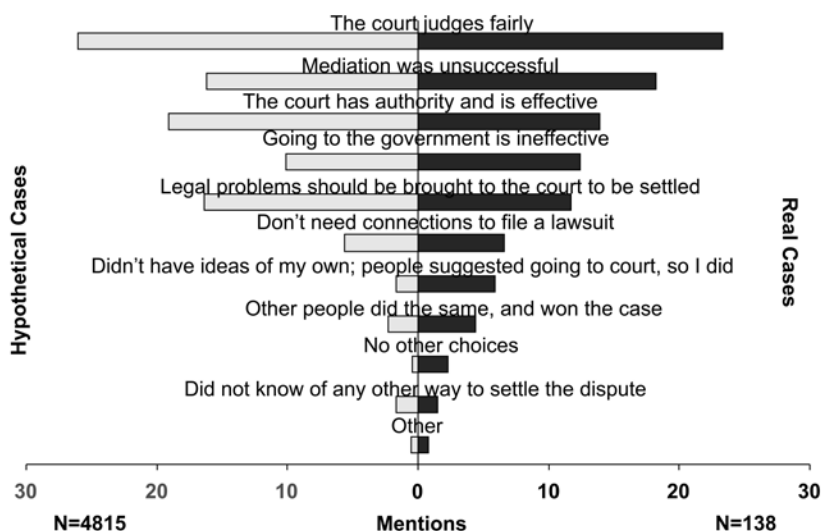


Obviously, there is not a very strong preference for using the legal mode to resolve disputes among Chinese rural residents in general, neither in real life nor in the hypothetical case. An overwhelming majority of our respondents, over 80%, in the real cases did not choose the legal mode, a much higher proportion than in the hypothetical case. Clearly in real life people rarely use this method to solve disputes. And for those who did choose the legal mode, most of them just saw it as one of the alternatives. A similar distribution is found in the hypothetical case as well, where there are only 11% of respondents who would take the legal mode as their only or first choice.

Reasons for Going or Not Going to Court

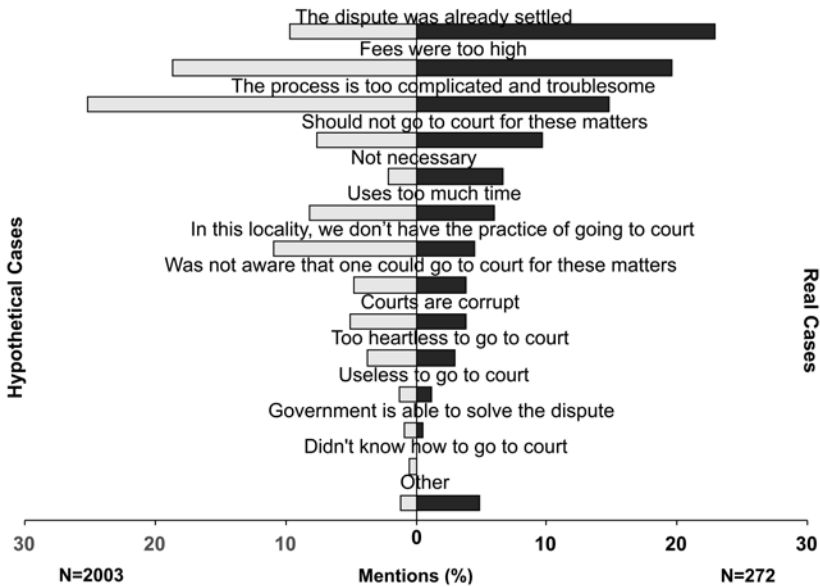
Reasons provided by the respondents for going to court to settle their disputes are mainly positive expectations about the court, which are that it is fair, has authority, and its decision is effective; litigation is the last option when all other modes did not work out. There is not much difference in this regard between the real and hypothetical cases (see Figure 6).

Figure 6. Reasons for Going to Court



While the positive expectations reflect trust in the formal legal institutions, it is interesting to note that the item “Legal problems should be brought to the court to be settled” was put forward by a sizeable segment in both contexts. It seems to us this reflects a kind of consciousness of the rule of law, which may be seen as a denial that legal issues should be intervened in by government and the personal connections commonly found in China. Another item, “Don’t need *guanxi* to file a lawsuit,” though not agreed by many people, is also worth noting.

Figure 7. Reasons for Not Going to Court



We now turn to the reasons for not going to court to settle disputes (see Figure 7). Obviously, the reasons mentioned for not going to court are very diverse. For the purpose of clarifying the data, we recoded the information along the following conceptual categories:

Cost concerns	Fees are too high
	Uses too much time
Lack of awareness/knowledge	Was not aware that one could go to court for these matters
	Don't know how to go to court
	The process is too complicated and troublesome
Culturally incorrect	In this locality we don't have the practice of going to court
	Too heartless to go to court
Lack of trust	Courts are corrupt
	Useless to go to court
Other modes worked	Government is able to solve the dispute
	The dispute was already settled
Other	All other items

The categories of cost concerns, lack of awareness and knowledge, and lack of trust are particularly relevant to our subsequent analysis.

Analysis and Findings

We use logistic regressions to test our hypotheses, since the dependent variable is an indicator variable. Three models are employed. The first model aims at analysing the effects of economic factors alone. The second one focuses on the effects of information factors. Finally, the third joint model analyses the partial effects of both economic factors and information factors.

We decided to use the data about hypothetical cases in our regression analysis for the following reasons. First, since the respondents were asked if they had ever been involved in any disputes in the past 20 years, that is, 1983–2003, it would be impossible to match annual economic data collected at the county level to the cases of actual disputes. Secondly, the proportion of rural respondents who experienced such disputes (365 out of 6616) was rather too small to have a detectable impact in multivariate regression models.

Dependent Variable

In this paper, “formal legal institutions” refers to courts. As reported above (Figure 6), there are four levels of preferences about the legal institutions from our data. In decreasing order of preference intensity, Items 1 to 4 mark whether 1) the formal legal channel was the only way; 2) the formal legal channel was the first choice; 3) the formal legal channel was considered, but not the first choice; and 4) the formal legal channel was not considered. Based on these answers, we created an indicator variable of preference for legal institutions. We assign “1” to the respondents who chose the “legal method” as a solution to a dispute that is, Item 1 through Item 3, and coded as “0” those who chose Item 4. As a result, 47.3% of our respondents would go to court to settle their case (hypothetical), and the rest would prefer not to.

The Explanatory Variables and Working Hypotheses

Explanatory variables included in the regression models are based on a range of working hypotheses. In order to test these hypotheses, three sets of measures were developed: the economic variables, the information and social resource factors, and a couple of control variables.

Economic Variables

We hypothesize that along with the process of marketization, the degree to which an individual is involved in market activities ought to increase the possibility that he gets into economic disputes, and thus influence his preferred modes of dispute resolution. An indicator variable (“*market activities*”) is created, where “1” is assigned to the respondents who have either completely left traditional farming or have engaged in commercial farming or other sideline business directly related to the market, and “0” to those who are still working as traditional farmers with little market activity.

We suppose that whether someone has ever signed a legal document is an important experience that might have an impact on his preference in choosing the formal legal institutions to solve an economic dispute.²⁶ A 0-1 variable (“*contract*”) is set to differentiate those who had that experience (“1”) and those who did not (“0”).

Mobility seems to be relevant. We expect that the experience of a

rural resident gained outside his village or home county may affect his preference for taking his case to court. Such exposure to the outside world may at least increase the chance of his awareness of litigation as an alternative option for dispute settlement. An indicator variable is thus created (“*out-exposure*”).

We assume that individual wealth (*family income*) matters. We expect that those who are financially better off would be more likely to be in favour of the formal legal institutions, and when they get involved in a dispute, they would prefer litigation.

As discussed earlier, we argue that the popular preferences for the formal legal institutions would be better explained by the speed of economic growth (*GDP growth rate*) rather than the level of economic prosperity (*GDP*) in rural China. When data are aggregated to macro levels (as many use the provincial and even regional-level data to describe the level and speed of economic development), local variability is ignored, so we decided to use the lowest level data available. Due to the incomplete township level data, what we use here is county-level data from 2003.

We employ an interaction term to test the proposition that the effect of economic development is curvilinear. The use of interaction terms in multivariate regression analysis is useful when testing hypotheses that “depend.”²⁷ Here, we argue that the effect of economic development on people’s preference for formal legal institutions depends on the phase of economic development. The marginal effect of GDP in less developed areas is higher than that in more developed ones.

Information and Social Resource Factors

We assume that information diffusion is crucial in fostering the legal awareness that helps consolidate legal reforms. Our hypothesis is straightforward: the more one knows about the law and legal institutions, the more likely one is to use them to protect and/or advance one’s interests. Three variables are particularly relevant: *Media usage* is a factor index of the types of media that our respondents use as their source of information, such as newspapers, magazines and journals, television, radio and the internet. *Legal knowledge* is also a factor index. Respondents received a score based on the number of correct answers they gave out of an eleven-item test. The third variable is an indicator that captures the respondent’s participation in any government-sponsored

legal educational campaigns in the past three years.

We expect that well-connected persons think that they can use this as an advantage if they take their cases to the court. *Social network* is a factor index of how many kinds of “important people” respondents regularly interact with.²⁸

Apparently, *trust* in the court is very important for an individual to decide whether or not to litigate. We use an indicator variable here, which reflects respondents’ faith in the formal legal institution: “1” stands for trust, “0” for lack of trust.

Control Variables

We use two control variables in all three regression models: educational attainment (years of formal schooling), and a variable labelled “cost concern” computed by compiling five items in the questionnaire that measure the respondents’ concern about the costs of litigation.

Findings

Table 1 shows the results of logistic regressions.

People with a higher level of education are more inclined to go to court to solve their economic disputes, *ceteris paribus*. And disputants’ concern with transaction costs, *ceteris paribus*, is the factor of most importance in deciding whether to go to court. Yet we use these two variables here just for control.

As seen in Model I and Model III, when controlling for educational attainment and cost concerns, family income turned out to be irrelevant, not statistically significant at all, while out-exposure and macro-economic effects are significant, as expected.

GDP growth rate especially has a positive influence on people’s choices, that is, people in more rapidly changing localities are more likely to go to court when they have economic disputes.

The marginal effect of GDP can be expressed as,

$$\frac{\partial Y}{\partial \log gdp} = 0.26 - 0.06 \text{ dummygdp},$$

when dummy gdp = 0, that is in less developed areas, the marginal effect of GDP = 0.26 (this effect is not statistically significant at 0.05

Table 1. Three Models of the Logistic Regression

Logistic Model:	MODEL I		MODEL II		MODEL III	
Dependent variable: Whether to go to court						
5700 observations	Log pseudo -likelihood	-2343.01	Log pseudo -likelihood	-2249.49	Log pseudo -likelihood	-1711.81
	p<	.01	p<	.01	p<	.01
	β	Robust S.E.	β	Robust S.E.	β	Robust S.E.
Economic variables						
<i>Individual</i>						
Family income	0.00	0.00			0.00	0.00
Contract	0.17	0.12			0.05	0.14
Market activities	0.20	0.12			0.22	0.12
Out-exposure	0.24	0.10 *			0.06	0.11
<i>Collective</i>						
GDP log	0.26	0.22			0.19	0.23
Log(GDP)* dummyGDP	-0.06	0.02 **			-0.07	0.02 **
GDP growth	4.76	1.17 ***			5.19	1.29 ***
Information and social resource variables						
Media usage			0.05	0.02 *	0.07	0.02 **
Legal educ. campaign			-0.10	0.12	-0.08	0.13
Legal knowledge			0.07	0.02 ***	0.09	0.02 ***
Social network			0.10	0.04 *	0.08	0.04
Trust in court			0.47	0.32	0.49	0.27
Control variables						
Education	0.11	0.01 ***	0.09	0.01 ***	0.08	0.02 ***
Cost concern	-28.27	2.94 ***	-28.71	2.95 ***	-27.82	2.95 ***
Constant	3.08	1.30 *	4.19	0.67 ***	2.37	1.43

* p< .05; ** p< .01; *** p< .001

Notes: 1. Sampling weight is considered in the regressions.

2. Variable “education is measured by years of formal schooling.” Variable “gdp log” is the log of county GDP in 2003; “dummygdp” is made by assigning “1” for counties whose GDP is above the median of all counties and “0” for those under the median; “loggdp*dummygdp” is made by multiplying “gdp log” by “dummygdp”; “gdp growth” is the county’s growth rate of GDP in 2003, when the survey was conducted.

level), while dummy $gdp = 1$, that is in more developed areas, the marginal effect = 0.20, which is less (the difference is statistically significant at 0.01 level).

As seen in Models II and III, *ceteris paribus*, information and social resource factors count as well. Media usage, legal knowledge, and social network all have positive effects when people decide whether or not to go to court, whereas participation in the government-launched legal educational campaigns and trust in courts appear not to be significant.

Controlling for information and social resource factors, none of the individual economic variables are as significant, yet macro-economic factors count more. This indicates that when legal knowledge and information are held constant, individual involvement no longer has significant effects on whether people go to court to settle disputes.

GDP growth becomes a predictor which is a little more powerful than in Model I, and this means that economic prosperity alone cannot support institutions. When working together with the information and social resource factors, macro-economic variables work better.

The level of economic prosperity may have a curvilinear effect. Though generally speaking, people's acceptance of the formal legal institutions becomes stronger as GDP grows, when GDP crosses a threshold (here, RMB4,745,730,000, median of the sampled county GDP), its marginal effect decreases (in Model III, the marginal effect of GDP = 0.19 when dummy $gdp=0$, and =0.12 when dummy $gdp=1$, and the difference is significant at 0.01 level).

Discussion

Based on county-level statistics, our analysis reveals that it is the growth rate, rather than the level of economic prosperity, that better accounts for the preference for the formal legal institutions. Growth rate represents the dynamics of the economy of a locality. Rapid growth brings with it rapid social changes which intensify the problems of society. In a locality undergoing intensive changes, there is increased tension in society, and thus interpersonal networking becomes less stable and informal mechanisms of dispute resolution tend to be less effective. In such a social context, the formal legal institutions as the symbol of the state authority are more likely to be seen as a fair and effective place to settle disputes.

The economic growth rate reflects the intensity of change in a locality, while the level of economic prosperity indicates the stage of economic modernization in a given locality. When a county reaches a relatively high level of economic prosperity, various social mechanisms become more mature: the formal and informal social organizations and social networks regain value, and people have greater and broader choices. In addition, in localities that enjoy a higher level of economic prosperity, the costs of court adjudication, time and related opportunity costs may also increase, which may give some disputants pause before taking their case to court.

We also discover that once economic prosperity crosses a certain threshold, its marginal effect decreases. The presence of a curvilinear relationship between economic prosperity and people's acceptance of formal legal institutions may be explained in at least three ways. First, the mechanisms of the social development argument may hold, but the effects may be offset by other factors affecting litigation.²⁹ Economic growth and social change increase the number of disputes, but given an inelastic supply of courts, this increase at some point begins to yield diminishing returns to plaintiffs in the form of longer delays between filing and disposition. These higher costs exert a downward pressure on case filings and may eventually negate the positive effects of social development. Second, the effects of social development may be inherently nonlinear.³⁰ The movement from an underdeveloped society to an advanced industrial one constitutes a major shift in social structure and norms. Social life among friends and relatives requires far different behaviour than interaction with strangers. However, once a society develops sufficiently to weaken the norms against litigation and the potential for informal resolution, further economic development may not stimulate increases in litigation: one is as much a stranger in a city of a hundred thousand as in a city of a million. Following this logic, we expect litigation to increase with social development during the initial transition to a new social structure and new sets of norms, but not to increase with further economic growth after the transition. Third, in highly advanced areas, more people have high socio-economic status and therefore are more concerned with transaction and opportunity costs: when disputes arise in this group, they are more likely to settle them informally (rather than going to court).

The hypothesis of a strong link between marketization and support for the courts suggests that as more rural Chinese engage in market-

oriented activities, their propensity to rely on formal legal institutions for dispute settlement is likely to increase. Marketization calls for the rule of law because law provides the best protection for commercial exchanges and property rights. The greater one's involvement in the market, the higher the odds of being entangled in some kind of economic dispute, hence the greater the likelihood of turning to the law for protection. However, this hypothesis does not hold when information and social resource factors are taken into account. As legal information and knowledge reach a certain level, the net impact of market involvement diminishes. In short, the econometric evidence suggests that better-educated and better-informed residents can still choose litigation for dispute resolution even if their involvement in market activities is limited.

Moreover, disputants' social connectedness plays a visible role when they make decisions. The results show that people who have more social connectedness are more likely to settle their disputes in court. There are two rival explanations of this. One is advanced by Putnam, who claims that social capital helps overcome "the dilemma of collective action," and fosters a participatory culture that is ultimately supportive of institutions.³¹ We offer a simpler alternative view, informed by the different social context in China: people who enjoy dense social connectedness are more inclined to use courts because they believe that their network will help them win their case. In the Chinese context, where *guanxi* play such a central role in people's daily lives, we believe the latter explanation makes more sense.

Finally, information diffusion matters. Those people who use the media more frequently and who have more knowledge about legal institutions are more inclined to go to court. They do so because information about legal institutions obtained from the media helps citizens better understand the procedures and inner workings of the litigation process. It also helps them overcome their apprehension about the complexity of going to court. This makes them more likely to use courts when disputes arise. Furthermore, people may avoid courts not because they are unaware that they have access to them, but because they are inherently reluctant to use them. As rural residents acquire more knowledge about legal institutions through the media, their confidence that courts work effectively and fairly in some cases is likely to increase, and thus encourage reliance on the courts when disputes occur.

Conclusion

This paper makes two major claims: First, we find that the level of local economic prosperity does not necessarily explain the propensity to take disputes to court; secondly, information diffusion and individual awareness of formal legal institutions are at least as important as economic growth for consolidation of formal legal institutions in rural China.

The speed of economic growth, rather than the level of economic prosperity, reinforces the consolidation of formal legal institutions. Without considering information and social resource factors, the more people are exposed to the “outside” world, the more likely they would turn to the formal legal institutions to solve economic disputes. Information and social resource factors, including media usage, legal knowledge, and social network, all have positive effects when people decide whether to go to court. Once information and social resource factors are controlled for, individual economic attributes become less significant. However, the macro-economic factors that capture the nature of economic development of the county where respondents resided at the time of the interview continue to count. Once economic prosperity crosses a certain threshold, its marginal effect on the preference for going to court decreases.

The era of rapid economic change in China is also bringing about changes to the social relationships of many rural residents. Social networks are becoming more diverse and more complex, and this provides social scientists with great opportunities to test existing theories about the process of institutional change. To some extent, the findings of this paper challenge the applicability of modernization theory (and its contemporary avatars) to the context of rural China, where the formal legal institutions are in the process of reconstruction. They point to the importance of community-level effects rather than individual attributes as key factors behind institutional development and change. Our findings also suggest that the current trend of research that combines individual-level survey data with contextual variables collected at multiple levels of the selection process (whether in formal hierarchical models or not) can help produce more nuanced accounts of the mechanisms of institutional formation and diffusion. We cannot say for sure whether our findings about the speed of economic growth or the non-linear impact of economic prosperity are unique to the Chinese experience. This requires

further explicitly empirical studies that cross national boundaries, still a rarity in the field of law and politics.

Notes

1. Wu Jinglian, “Jianshe fazhi de shichang jingji” (Establishing a Lawful Market Economy), *Fazhi luncong* (Journal of Shanghai Institute of Politics and Law), No. 5 (2002); Zhu Ainong, “Fazhi guojia, shichangjingji fazhan de keguan yaoqiu yu biran jieguo” (The Role Played by Project of Rule of Law in the Market Economy), *Ningxia daxue xuebao* (Journal of Ningxia University [Social Science Edition]), No. 2 (2000); Zhong Xinhai and Xing Guangmei, “Ying jianli youxiao de zhengfu guanli zhiyue jizhi” (Must Establish an Effective Government Administration), *Tansuo yu zhengming* (Exploration and Free Views), No. 3 (2001).
2. Margaret Pearson, *Joint Ventures in the People’s Republic of China: The Control of Foreign Direct Investment under Socialism* (Princeton, NJ: Princeton University Press, 1991); Pitman B. Potter, “Riding the Tiger: Legitimacy and Legal Culture in Post-Mao China,” *The China Quarterly*, No. 138 (1994), pp. 325–58; Pitman B. Potter, “Foreign Investment Law in the People’s Republic of China: Dilemmas of State Control,” in *China’s Legal Reforms*, edited by Pitman B Potter (Oxford University Press, 1996), pp. 155–85.
3. Randall Peerenboom, *China’s Long March toward Rule of Law* (New York: Cambridge University Press, 2002).
4. Hungdah Chiu, *Institutionalizing a New Legal System in Deng’s China* (Baltimore, MD: University of Maryland, 1994); Ronald C. Keith, *China’s Struggle for the Rule of Law* (New York: St. Martin’s Press, 1994); Stanley B. Lubman, *Bird in a Cage — Legal Reform in China after Mao* (Stanford, CA: Stanford University Press, 1999); Melanie Manion, “Corruption and Corruption Control: More of the Same in 1996,” in *China Review 1997*, edited by Maurice Brosseau, Kuan Hsin-chi and Y. Y. Kueh (Hong Kong: The Chinese University Press, 1997); Pitman B. Potter, *Economic Contract Law in China: Legitimation and Contract Autonomy in the PRC* (Seattle, WA: University of Washington Press, 1992).
5. Ethan Michelson, “The Practice of Law as an Obstacle to Justice: Chinese Lawyers at Work,” *Law and Society Review*, No. 40 (2006), pp. 1–38.
6. Mary E Gallagher, “Mobilizing the Law in China: ‘Informed Disenchantment’ and the Development of Legal Consciousness,” *Law and Society Review*, No. 40 (2006), pp. 783–816.
7. Gallagher (Note 6).
8. See the paper by Yang Ming and Chen Juan on legal knowledge in this volume.

9. Krishan Kumar, "Modernization and Industrialization," in *Encyclopedia Britannica*, reprinted in *Modernity: Critical Concepts*. Vol. I: Modernization, edited by Malcolm Waters (London and New York: Routledge, 1990), pp. 72–104.
10. Walt W. Rostow, *The Stages of Economic Growth: A Non-Communist Manifesto* (Cambridge: Cambridge University Press, 1960); Walt W. Rostow, *Politics and the Stages of Growth* (Cambridge: Cambridge University Press, 1971); A. F. K. Organski, *The Stages of Political Development* (New York: Alfred A. Knopf, 1965); C. E. Black, *The Dynamics of Modernization* (New York: Harper and Row, 1966).
11. Ronald Inglehart and Christian Welzel, *Modernization, Cultural Change and Democracy* (New York: Cambridge University Press, 2005).
12. For example, Bruce Gilly, *China's Democratic Future* (New York: Columbia University Press, 2004).
13. Daniel Lerner, *The Passing of Traditional Society* (Glencoe, IL: Free Press, 1958); Karl W. Deutsch, "Social Mobilization and Political Development," *The American Political Science Review*, Vol. 55, No. 4 (1961), pp. 493–514.
14. Adam Przeworski and Fernando Neto, "Modernization: Theories and Facts," *World Politics*, No. 49 (1997), pp. 155–83; Adam Przeworski, Michael E. Alvarez, Jose Antonio Cheibub and Fernando Limongi, *Democracy and Development* (Cambridge: Cambridge University Press, 2000).
15. Inglehart and Welzel (Note 11).
16. Robert Putnam, *Making Democracy Work* (Princeton, NJ: Princeton University Press, 1993).
17. Ibid.
18. Daniel Diermeier and Keith Krehbiel, "Institutionalism as a Methodology," *Journal of Theoretical Politics*, Vol. 15, No. 2 (2003), pp. 123–44.
19. Douglass C. North, *Institutions, Institutional Change, and Economic Performance* (Cambridge: Cambridge University Press, 1990).
20. Avner Greif, *Institutions and the Path to the Modern Economy* (Cambridge University Press, 2006).
21. Herbert A Simon, "Human Nature in Politics: The Dialogue of Psychology with Political Science," *American Political Science Review*, Vol. 79, No. 2 (1985), pp. 293–304.
22. Gong Pixiang, "Zhongguo fazhi xiandaihua mianlin de sida maodun" (China's Law Facing the Conflicts with Modernization), *Tansuo yu zhengming*; Liang Zhiping, "Xiguangfa, shehui yu guojia" (Law: Society and State), *Dushu*, No. 3 (1995); Xu Jingcun and Liu Rongjun, "Jiufen jie jue yu fa" (Dispute Resolution and the Law), *Xiandai faxue* (Modern Law Science), Vol. 3 (1999).
23. Su Li, *Fazhi jiqi bentu ziyuan* (Law and Its Domestic Resources) (Beijing: Zhongguo zhengfa daxue chubanshe, 1996); Zhao Xudong, "Xisu, quanwei

- yu jiufen jieju de changyu” (The Field of Custom, Authority and Disputes Resolution), *Shehuixue yanjiu* (Sociological Studies), Vol. 2 (2001); Chen Hongyi, “Tiaojie, susong yu gongzheng dui xiandai ziyou shehui he rujia chuantong de fansi” (Mediation, Litigation and Justice: Confucian Reflection in a Modern Liberal Society), *Xiandai faxue*, Vol. 3 (2001); Tian Chengyou and Li Yixiong, “Xiangtu shehui minjianfa yu jiceng faguan jieju jiufen de celüe (The Nongovernmental Laws in Rural Communities and the Strategic Approaches of the Local Level Judges to Solve Disputes), *Xiandai faxue*, Vol. 1 (2002); Mai Yisheng, “Jiufen yu falü xuqiu,” *Jiangsu shehuikexue* (Jiangsu Social Sciences), Vol. 1 (2003); Fan Yu, “Qiantan dangdai ‘fei susong jieju jiufen’ de fazhan jiqi qushi” (Brief Discussion of Contemporary Development and Trends of “Dispute Resolution without Lawsuits”), *Bijiaofa yanjiu* (Journal of Comparative Law), Vol. 4 (2003).
24. The actual question reads: “Since you have not had such an experience, let’s use a hypothetical case to understand your views. To help a township business through some financial difficulties, a township government borrows RMB100,000 from villager Wang Lin. The agreement lays down that this amount should be repaid in two years. But two years go by, and the amount has still not been repaid. If you were Wang Lin, what would you do? Would you take action to settle the dispute, or would you not do anything?”
 25. We compiled several items of the choice set into “Other modes” here. They are: directly negotiate with the other party; turn to the deputies of the National People’s Congress; report to the news media; participate in a sit-in or a demonstration; use violence, etc.
 26. In the questionnaire we asked: “Have you ever signed any financial contracts, such as contracts concerning labour, loans, production and marketing, property purchase, investment or rent?”
 27. For an elaboration of the use of interaction terms, please refer to Thomas Brambor, William Clark and Matt Golder, “Understanding Interaction Models: Improving Empirical Analyses,” *Political Analysis*, No. 14 (2006), pp. 63–82.
 28. The “important people” listed in the questionnaire are party and government leading cadres, judicial and public security officials, deputies in the People’s Congress, trade union officials, complaints bureau officials, lawyers, teachers and journalists.
 29. Michael W. Giles and Thomas D. Lancaster, “Political Transition, Social Development, and Legal Mobilization in Spain,” *The American Political Science Review*, Vol. 83, No. 3 (1989), pp. 817–33.
 30. Giles and Lancaster (Note 29).
 31. Putnam (Note 16).

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.