

Judicial Transparency in China: Principal-Agent Problem and Firm Characteristics

by

Zeyuan Wang

Department of Political Science  
Duke University

Date: \_\_\_\_\_

Approved:

\_\_\_\_\_ Edmund Malesky \_\_\_\_\_  
Edmund Malesky, Supervisor

\_\_\_\_\_ Georg Vanberg \_\_\_\_\_

\_\_\_\_\_ Emerson S. Niou \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Thesis submitted in partial fulfillment of  
the requirements for the degree of  
Master of Arts in the Department of  
Political Science in the Graduate School  
of Duke University

2021

ABSTRACT

Judicial Transparency in China: Principal-Agent Problem and Firm Characteristics

by

Zeyuan Wang

Department of Political Science  
Duke University

Date: \_\_\_\_\_

Approved:

\_\_\_\_\_  
Edmund Malesky  
Edmund Malesky, Supervisor

\_\_\_\_\_  
Georg Vanberg

\_\_\_\_\_  
Emerson S. Niou

\_\_\_\_\_  
\_\_\_\_\_

An abstract of a thesis submitted in partial  
fulfillment of the requirements for the degree  
of Master of Arts in the Department of  
Political Science in the Graduate School of  
Duke University

2021

Copyright by  
Zeyuan Wang  
2021

## **Abstract**

The thesis discusses the principal-agent problem in authoritarian countries during the practice of judicial transparency. In specific, it studies what motivates Chinese courts to be partially obedient under mandatory disclosure policies, as opposed to strictly disclosing as instructed. I empirically test how ownership structure and political connections of firms affect courts' final decisions in implementing transparency on intellectual property litigations. I create a case-level dataset from 2007 to 2017 by comparing the IP litigations claimed by listed firms and the litigation disclosure conducted by the local courts later. The empirical results suggest that local courts defend the interests of SOEs by not disclosing litigations involving these firms, but they do not give preferential treatment to politically connected firms alone. This study sheds light on the principal-agent problem in China's judicial branch, and explains the incentives of the local courts in making their own decisions.

# Contents

|   |      |
|---|------|
| Abstract.....   | iv   |
| List of Tables.....   | vii  |
| List of Figures.....  | viii |
| Acknowledgements.....   | ix   |
| 1. Introduction.....  | 1    |
| 2. Literature Review.....   | 11   |
| 2.1 Traditional Understanding of Chinese Judiciary and Its Mechanism..... | 11   |
| 2.2 Principal-Agent Problem in Chinese Judiciary.....                     | 14   |
| 2.2.1 Incentives of Central Government.....                               | 16   |
| 2.2.2 Incentives of Local Governments.....                                | 17   |
| 2.2.3 Incentives of Firms.....  | 17   |
| 3. Theoretical Framework.....   | 19   |
| 3.1 State Ownership in China.....   | 19   |
| 3.1.1 Home Court.....   | 20   |
| 3.1.2 Intermediate Court.....   | 21   |
| 3.1.3 Central Authority.....  | 21   |
| 3.2 Political Connection.....   | 22   |
| 4. Data and Method.....   | 23   |
| 4.1 Data Collection.....  | 23   |
| 4.2 Data Description.....   | 25   |
| 4.3 Measurement.....  | 26   |
| 4.3.1 Dependent Variable.....   | 26   |

|  |    |
|--|----|
| 4.3.2 Major Independent Variables.....             | 26 |
| 4.4 Method.....                                    | 29 |
| 5. Empirical Result.....                           | 30 |
| 5.1 Main Results.....                              | 30 |
| 5.1.1 Basic Effects.....                           | 30 |
| 5.1.2 Interaction Effects.....                     | 31 |
| 5.2 Comparative Analysis of SOEs and Non-SOEs..... | 32 |
| 5.3 Robustness.....                                | 33 |
| 6. Conclusion.....                                 | 40 |
| References.....                                    | 43 |

## List of Tables

|   |    |
|---|----|
| Table 1: Summary Statistics of Data.....                      | 7  |
| Table 2: Summary Statistics Sorted by Dependent Variable..... | 9  |
| Table 3: Description of Variables.....                        | 10 |
| Table 4: Main Results.....                                    | 35 |
| Table 5: Interaction Effects.....                             | 36 |
| Table 6: Differences for SOEs and non-SOEs.....               | 37 |
| Table 7: Logistic Regression Models.....                      | 38 |
| Table 8: Genetic Matching Result.....                         | 39 |

## List of Figures

|   |   |
|---|---|
| Figure 1: Sampling Process.....                   | 6 |
| Figure 2: Sample Distribution Sorted by Year..... | 8 |



## **Acknowledgements**

I would like to sincerely express my appreciation to the co-supervisor of this thesis, Professor Edmund Malesky and Professor Georg Vanberg for sharing experience of writing good thesis and offering suggestions on improving the quality of building theoretical framework and expressing empirical results. I also appreciate the suggestions given by another defense committee member, Professor Niou.

I would like to thank Professor Melanie Manion, and Zeren Li, a Ph.D student in Political Science for their support during the process of data collection and dataset cleaning.

In addition, I would like to thank my parents for their wise counsel and sympathetic ear.

## **1. Introduction**

Transparency in governance, often conceptualized as an obligation of revealing information of public concern and going through public scrutiny, being a relatively new standard in developed, western democracies, has now become a special area of academic interest in the study of authoritarian countries with the assistance of new online database and technologies.

Among different types of transparency measurements, publication of court filings is regarded as an extremely important barometer of incentives of the ruling coalition to promote transparency, especially in authoritarian countries. Authoritarian leaders have adopted complete or partial judicial disclosure to deter criticism from the grassroots as well as from within the ruling coalition (Hollyer et al., 2019). More importantly, publication of litigation files is accepted in authoritarian regimes because citizens have adopted the idea of public scrutiny more or less. There has been a growing eagerness to be exposed to genuine information on major lawsuits or high profile litigations in authoritarian countries, and opacity of judicial practice can lead to negative repercussions on political trust and economic conditions (Ahl & Sprick, 2018). Under these circumstances, authoritarian governments are forced to demonstrate that their dedication to judicial transparency is more than window dressing. More recently, many authoritarian regimes already embraced Internet platforms and equip digital instruments for the ongoing judicial transparency movement (Ahl et al., 2019).

However, authoritarian court systems are not independent institutions like those in democracies. They are primarily arranged to serve the benefits of the winning coalition and maximize the staying power of autocrats (Ginsburg & Moustafa, 2008). Thus, even in cases when democratic and authoritarian courts both exercise partial judicial disclosure in practice, economic determinants such as degrees of marketization or fiscal budget that accounts for differentiation in level of disclosure in democracies most political scientists found in previous studies (Albaladejo, 2013; Chanin & Courts, 2017; Grendstad et al., 2017; Grimmelikhuijsen & Welch, 2012) cannot fully explain incomplete transparency in authoritarian countries. Therefore, this study shifts to authoritarian judiciary in order to fill in the gap between democratic and authoritarian incentives of adopting judicial transparency.

In my view, partial transparency is caused by selective disclosure in authoritarian countries because of its unique principal-agent problems. Access to political information is usually more costly and restricted in authoritarian societies. Thus, when the central government suddenly decides to improve the level of local operational transparency, it not only raises doubt on political surveillance and turnover from the local side, but also breaks down opportunities for collusion between local agents and business. I theorize that the local agents (i.e. courts at different levels), if motivated by some embedded interests, will not appear to be entirely submissive.

I decide to conduct a case study on local Chinese courts to meet theoretical thresholds and fit empirical requirements. Historically, China has never been considered as an authoritarianized democracy nor a democratizing society, so there is

no institutional contamination in Chinese courts. Besides, China is now purposefully strengthening its legal institution in practice and has launched a national campaign of online judicial disclosure (Finder, 2018; Liebman et al., 2017). It has established a series of online judicial disclosure platforms since the introduction of State Council's 2007 Open Government Information Regulations, including "*China Intellectual Property Court Judgment Online*"<sup>1</sup>, the database where I collected baseline data for the research. This platform was established for the exclusive disclosure of court decisions and relevant documents on intellectual property cases in China for the purpose of protecting intellectual properties. In 2013, a new Provision of the SPC on the Issuance of Judgments made nationwide disclosure of court decisions on digital platforms mandatory for courts at all levels. "*China Judgment Online*", a more comprehensive platform, was established soon after to store court documents in various fields.

Despite the fact that mandatory publication of court decisions opens massive opportunities for academic research, these data has not been taken full advantage of in existing works. In addition, the data that most researchers choose are confined to subsets of "*China Judgment Online*" because they suppose that cases obtained from the platform are complete. Moreover, it can be risky to overly rely on the CJO database because it is not a whole sample (Liebman et al., 2017). Many specialized online platforms such as CIJO have been established after the 2007 reform to publish case files in specific areas, and these documents are not available on CJO simply

---

<sup>1</sup> The website is hereafter referred to as CIJO in this paper.

because they have been published elsewhere. Therefore, it casts doubt on whether the disclosure rate derived from CJO database is the true disclosure rate.

Meanwhile, there have been academic papers touching on provincial-level variation in legal transparency (Ma et al., 2016; Tang & Liu 2019). However, neither did these previous work explain what causes the variation, nor did they delve into more basic units of decision-making in judicial transparency. Extant research on Chinese judiciary are mostly province-specific and at best firm-specific (Ang & Jia, 2014; Firth et al., 2011; Lu et al., 2015; O'Brien & Li, 2006), so the scarcity of case-level analysis makes it difficult to analyze the most basic variations caused by both firm traits and court traits.

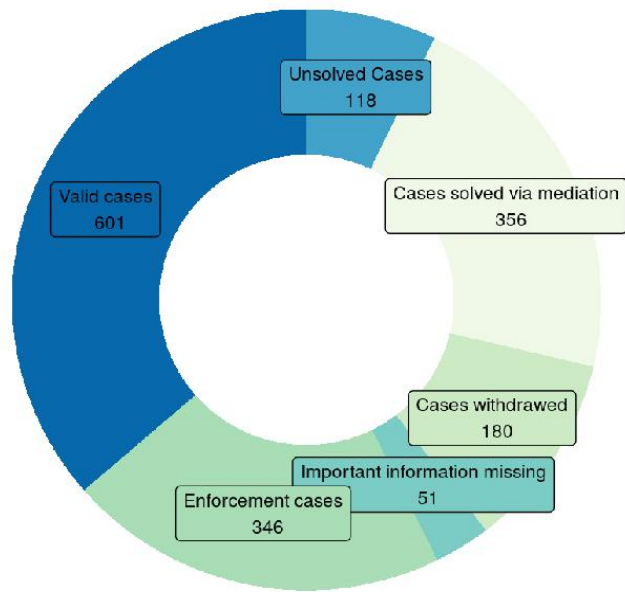
Retrospectively, previous work has been dissatisfactory in providing solutions to these challenges listed above. Therefore, I improve the quality of data by choosing the CIJO database instead of CJO, as CIJO contains the full sample of all cases related to intellectual property violation. I provide, to my knowledge, the first empirical analysis which uses the CIJO database to study the non-compliance issue in Chinese judicial transparency at the case-specific level. Besides, low level of political sensitiveness of IP litigation eliminates the threat of direct central intervention, and complexity of IP litigation in an underdeveloped legal system renders litigation results secondary when determining whether to disclose the case or not.

By examining the patterns of selective disclosure of IP cases, I argue that the local courts may refrain from disclosing the details of IP cases involving SOEs or companies with personalized political connections. Through empirical test of the effect of ownership structure and informal political ties on local judicial disclosure,

preferential treatment to SOEs is confirmed while favoritism on politically connected firms is rejected. The main results are robust after tests using alternative models and genetic matching. Beyond presenting judicial favoritism towards SOEs, I analyze several extensions which explicate how state ownership exerts influence. The results show that transparency level is more susceptible to court rank than court location, and protection of SOEs survives the mandatory disclosure requirement after 2013. Moreover, I demonstrate that SOEs have special status through separate regressions on SOEs and non-SOEs. It shows that rich SOEs experience the least disclosure while rich non-SOEs are the most vulnerable under the current campaign.

This paper contributes to the study on judicial institutions in authoritarian countries by providing new empirical evidence on how local authoritarian courts disregard judicial transparency requirements in exchange for interests. It explains how distinct incentives of local courts bias the results of judicial disclosure, even though judicial transparency has been promoted by the centre. Thus, it also enhances the understanding of principal-agent problem in authoritarian judiciaries, which is traditionally perceived as the dependency of the ruling elites.

I will proceed as follows. The second section introduces the background information of Chinese judiciary and the corresponding principal-agent problem. The third section presents the theoretical framework and the major hypotheses. Next, I describe the data collection process, variable specification and choice of statistical method in the fourth section. Then, I present the empirical results and robustness tests in the fifth section. Finally, I conclude with discussions of findings and future implications.

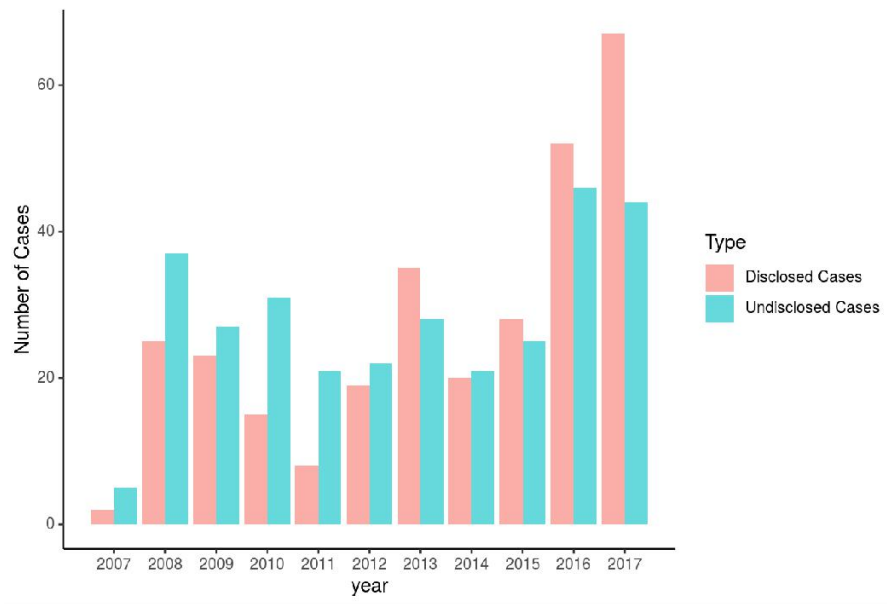


**Figure 1: Sampling Process**

**Table 1: Summary Statistics of Data**

| Statistic           | N   | Mean               | St. Dev.           | Min                | Max                 |
|---------------------|-----|--------------------|--------------------|--------------------|---------------------|
| disclosure          | 601 | 0.494              | 0.500              | 0                  | 1                   |
| SOE                 | 601 | 0.368              | 0.483              | 0                  | 1                   |
| Home                | 601 | 0.517              | 0.500              | 0                  | 1                   |
| Government Official | 601 | 0.592              | 0.492              | 0                  | 1                   |
| Delegate            | 601 | 0.319              | 0.467              | 0                  | 1                   |
| Firm Age            | 601 | 15.865             | 4.592              | 1                  | 32                  |
| Litigation Result   | 601 | 0.486              | 0.500              | 0                  | 1                   |
| First Instance      | 601 | 0.767              | 0.423              | 0                  | 1                   |
| Firm Size           | 601 | 4,134.195          | 10,058.520         | 11                 | 97,400              |
| Intermediate        | 601 | 0.556              | 0.497              | 0                  | 1                   |
| Asset               | 601 | 16,041,991,153.000 | 19,734,310,006.000 | -1,898,457,037.000 | 271,354,248,952.000 |
| Post 2013           | 601 | 0.609              | 0.488              | 0                  | 1                   |
| ROA                 | 601 | -0.075             | 0.739              | -11.625            | 2.339               |





**Figure 2: Sample Distribution Sorted by Year**

**Table 2: Summary Statistics Sorted by Dependent Variable**

|                                  | Cases not disclosed by courts<br>(N=304) | cases disclosed by courts<br>(N=297) | P-value |
|----------------------------------|--|--------------------------------------|---------|
| <b>SOE</b>                       |  |                                      |         |
| Yes                              | 150 (49.3%)                              | 71 (23.9%)                           | <0.001  |
| No                               | 154 (50.7%)                              | 226 (76.1%)                          |         |
| <b>Home Court</b>                |  |                                      |         |
| Yes                              | 166 (54.6%)                              | 145 (48.8%)                          | 0.181   |
| No                               | 138 (45.4%)                              | 152 (51.2%)                          |         |
| <b>Connected with Government</b> |  |                                      |         |
| Yes                              | 187 (61.5%)                              | 169 (56.9%)                          | 0.286   |
| No                               | 117 (38.5%)                              | 128 (43.1%)                          |         |
| <b>Connected with Parliament</b> |  |                                      |         |
| Yes                              | 87 (28.6%)                               | 105 (35.4%)                          | 0.092   |
| No                               | 217 (71.4%)                              | 192 (64.6%)                          |         |
| <b>First Instance</b>            |  |                                      |         |
| Yes                              | 245 (80.6%)                              | 216 (72.7%)                          | 0.029   |
| No                               | 59 (19.4%)                               | 81 (27.3%)                           |         |
| <b>Prevailing Party</b>          |  |                                      |         |
| Yes                              | 138 (45.4%)                              | 154 (51.9%)                          | 0.133   |
| No                               | 166 (54.6%)                              | 143 (48.1%)                          |         |
| <b>Intermediate Court</b>        |  |                                      |         |
| Yes                              | 177 (58.2%)                              | 157 (52.9%)                          | 0.215   |
| No                               | 127 (41.8%)                              | 140 (47.1%)                          |         |
| <b>Number of Employees</b>       |  |                                      |         |
| Mean (SD)                        | 4550 (11200)                             | 3700 (8680)                          | 0.299   |
| Median [Min, Max]                | 1000 [11.0, 97400]                       | 1140 [14.0, 80000]                   |         |
| <b>Firm Age</b>                  |  |                                      |         |
| Mean (SD)                        | 16.0 (4.47)                              | 15.8 (4.72)                          | 0.547   |
| Median [Min, Max]                | 16.0 [4.00, 32.0]                        | 16.0 [1.00, 28.0]                    |         |
| <b>Assets</b>                    |  |                                      |         |
| Mean (SD)                        | 4920000000 (11000000000)                 | 7200000000 (25800000000)             | 0.16    |
| Median [Min, Max]                | 1400000000 [-1900000000, 100000000000]   | 1500000000 [29800000, 27100000000]   |         |
| <b>Post 2013</b>                 |  |                                      |         |
| Yes                              | 164 (53.9%)                              | 202 (68.0%)                          | <0.001  |
| No                               | 140 (46.1%)                              | 95 (32.0%)                           |         |
| <b>ROA</b>                       |  |                                      |         |
| Mean (SD)                        | -0.125 (1.01)                            | -0.0230 (0.231)                      | 0.088   |
| Median [Min, Max]                | 0.0252 [-11.6, 2.34]                     | 0.0235 [-1.53, 0.626]                |         |

**Table 3: Description of Variables**

| Name                | Description   |
|---------------------|---|
| SOE                 | It is an indicator variable which equals one if the firm is state-owned, zero otherwise.  |
| Home                | It is an indicator variable which equals one if the case is handled by a court that is located at the same region as the firm, zero otherwise.                                |
| Intermediate        | It is an indicator which equals one if the court is an intermediate court, zero otherwise.  |
| Post 2013           | It is an indicator which equals one if the case occurs after the 2013 mandatory disclosure requirements of SPC, zero otherwise.   |
| Firm Size           | This represents the number of employees of the firm at the year of disclosure.  |
| Firm Age            | This represents the age of the firm.  |
| First Instance      | This is an indicator which equals one if the case is a first instance case, zero otherwise.   |
| Government Official | This is an indicator which equals one if there is at least one current or former government official in the firm's executive board at the year of disclosure, zero otherwise. |
| Delegate            | This is an indicator which equals one if there is at least one delegate of the Two Sessions in the firm's executive board, zero otherwise.                                    |
| Asset               | This represents the total tangible assets of the firm in the preceding year of disclosure.  |
| ROA                 | This represents the return on assets of the firm in the preceding year of disclosure.   |

## **2. Literature Review**

There are conflicting views in extant research of Chinese judiciary regarding whether Chinese courts are able to exercise autonomy in concrete judicial practice or not, and how their incentives and behaviors are shaped by embedded conditions. In response to doubts on Chinese judiciary mechanism, this literature review will summarize how local courts are restrained by the central government, and discuss further how the principal-agent problem in judicial control leads to noncompliance behavior in judicial practice, especially in enforcement of judicial transparency.

### ***2.1 Traditional Understanding of Chinese Judiciary and Its Mechanism***

Conventional wisdom seems to suggest that authoritarian judicial institutions are dependent functioning bodies by their birth, and authoritarian leaders keep the judicial system for some political reasons. Indeed, authoritarian leaders hold firm control of judicial institutions in many aspects. The autocrats decide to build rule of law not to distribute powers, but to utilize the establishment of legal institutions as a legitimizing rhetoric by mimicking a democratic society (Ginsburg & Moustafa, 2008).

Speaking of the incentives, autocrats may maintain the existence of court system as one of several strategies to promote discipline within the state's administrative hierarchy, as judicial institutions can generate an independent stream of information in case the local officials conceal information received from citizens (Shapiro, 1981). Alternatively, autocrats may need courts to maintain social stability by breaking down the mass unrest into individualized legal mobilization (Chen & Xu, 2012). In this sense, court serves as a contention site for depressed citizens to resolve disputes without resorting to violence. For example, Singapore is typical of using court to

achieve political control in a period of rapid economic growth (Rajah, 2012; Silverstein, 2008).

At first sight, the establishment of Chinese courts is of no exception. Contemporary judiciary system in China was established by the Deng generation after the Cultural Revolution to prevent abuse of lynch or “rule of man” in times of political turbulence (Ginsburg, 2002). The Chinese Communist Party regards dedication to rule of law as a chance of cultivating support and eliminating the threat of potential collective actions (Gallagher, 2017). The Chinese judiciary, by its nature, is designed as one of the auxiliary institutions of the party-state, which is designated to implement national or local decisions and policies made by the Centre (Li, 2016). They are portrayed by scholars as being weak (Liebman et al., 2017), politically dependent (Tang & Liu, 2019), and giddy-headed in decision-making.

Chinese courts are constrained by the central party-state to some extent indeed. First, the central government supervises all judges by converting administrative-legal relation to top-down management with the Communist Party. In China, courts are both legal adjudication sites and administrative organizations. The CCPCC delegates party committees at different levels to guide judicial practice without resorting to direct intervention. Court president, vice presidents and all judges must hold positions in the party committee of that court (Su, 2000). For example, the court president is usually the chief party secretary at the same time. Power is distributed to judges according to their actual posts in the Party. Party elites at the same administrative level are authorized to appoint, remove and dismiss judges, evaluate their bureaucratic performance and communicate central policies (He, 2012; Peerenboom, 2002). As their legal career is tied with their bureaucratic career, judges have no strong

incentives to rebel against central planning. Actually, the more that local courts comply with core regime interest, the more they tend to enjoy autonomy and discretion in more concentrated areas (Ginsburg & Moustafa, 2008).

Second, the party-state controls access to justice on a macro level by setting up adjudication committees in courts and political-legal committees. Adjudication committee is constituted as the highest decision-making body in every Chinese court, which oversees adjudications and offer ultimate interpretations when necessary (He, 2012). Presidents, vice presidents and inspectors of the local judicial organization are appointed to join the committees by the Party leadership. When judges have doubts on cases which departmental chiefs cannot explain either, or cases have substantive impacts on the society, the adjudication committee steps in to decide the final ruling after secret internal discussions. Therefore, adjudication committee makes the ruling of difficult, significant cases consistent and rarely go array (Su, 2000). Upon that internal control, party committees at all levels set up political-legal committees to coordinate the work of local courts, procuratorates, public security organs and national security agencies. The political-legal committee at the local level will intervene in the litigation if the case is politically sensitive or related with state secrets, especially when the case triggers potential collective actions, so the court cannot decide on its own. This procedure is called “Comprehensive Management of Public Security” (Wang & Minzner, 2015).

Intellectual property courts in China have the same organizational structures as normal courts do, except that they are separated from People’s Courts in many developed regions (Sepetys & Cox, 2009). Put simply, when judges make decisions

about either judgments or disclosure of intellectual property cases, they are also constrained by internal and external control of party elites.

However, this is not saying that courts are merely string puppets of the centre. In fact, traditional assumption of Chinese judicial dependency downplays the effects of China's power structure and strategic concerns of local agents, which motivates local courts to be halfhearted in implementing national regulations such as campaigns on legal transparency.

## ***2.2 Principal-Agent Problem in Chinese Judiciary***

Despite the fact that courts in China receive tense pressure from the central government, the Chinese judiciary can still appear noncompliant because of the country's political and tax system.

The Chinese political system is a decentralized system with fragmented bureaucratic structure (Mertha, 2009). Hence, the interests of agents may be in conflict with that of the central government. For example, Supreme People's Court can be seen as an agent on judicial affairs of the central government, but evidence shows that a bargaining game is played by the SPC in recent years in order to extend its authority in legal policies, by navigating fissures within the party-state (Ip, 2012). The same reason leads to diverging interests between the central government and the local judicial institutions, which gives rise to a notable principal-agent problem. When implementing top-down policies such as mandatory disclosure of judicial information, local courts primarily consider its own interests and the interests of its local government.

The non-compliance behavior of local courts can be ascribed to the budget concerns behind the alleged dual leadership. In China, courts are just nominally under the dual leadership of local party committees and the higher level courts simultaneously. However, the judiciary only answers to the territorial party-state in practice (Wang, 2018). In other words, courts are primarily the agents of the territorial party-state at the same administrative level. As the daily operation of courts is dependent on the financial support from local government (Holmes & Sunstein, 2000; Zuo, 2015), it is not reasonable for courts to disobey the instructions given by their paymasters. Besides, a recent reform on fiscal distribution of Chinese judiciary was largely nominal and did not change the status quo (Wang, 2018). Therefore, judicial and administrative decision-making within courts is essentially embedded into its financial status. In less developed areas, courts have to prioritize survival before prospects of promotion, so they will rigidly follow the instructions set by the local government (Ng & He, 2017). Only in a few economically developed areas, courts can be less worried about the budget. In this regard, courts' dedication to judicial transparency or any new policies is susceptible to the capacity and willingness of the local government (Grimmelikhuisen & Welch, 2012; Lorentzen et al., 2014). If the municipal leader decides to favor a local company, she is capable of instructing local courts to make a plea bargain on the case involving that company. With that being said, we should review the incentives of different players in the Chinese context and make sense of why their preferences diverge.



### **2.2.1 Incentives of Central Government**

The central government and the Supreme People's Court are champions of local judicial transparency, as disclosure of judicial information facilitates disciplinary inspection and legal reforms. First, the ruling elites worry about the regime's future legitimacy if local judicial practice maintains less constrained even on non-politically-sensitive occasions. As the centre announces pilot programs of judicial disclosure at the very beginning and eventually requires mandatory disclosure, they warn local courts of the cost of wrongdoing or mismanagement, and also want to make public monitoring and information revealing processes mutually reinforcing during the ongoing anti-corruption campaign (King et al., 2014; Li et al., 2019; Zhang, 2013). Second, they can use judicial information disclosure deepen legal education on local judges, lawyers, and litigants within the poor legal environment in a developing country. More often than not, the governments fail to provide ideal legal institutions and trained personnel, so they encourage citizens to become monitors and "firefighters" themselves through educational legal mobilization (Gallagher, 2006). Thus, publication of vast legal documents and written judgments become handy textbooks for citizens to learn how litigations are decided. Chinese government also attempts to improve its reputation by especially promoting transparency of intellectual property litigations. The Chinese has been criticized by the western countries for decades for the lack of IP protection, which makes it more difficult for the central government to elevate its international standing (Wall, 2006). Due to opacity of IP litigation, speculations on preferential treatment of foreign enterprises and on preferential treatment of SOEs both seem to receive empirical support (Bian, 2018;

Wei & Davis, 2018). Legal transparency, particularly on IP litigation, has become a matter of great urgency for the centre.

### **2.2.2 Incentives of Local Governments**

Local governments are not enthusiastic about full judicial transparency, as partial disclosure is beneficial to the promotion of local officials. Major firms are able to endorse governmental campaigns, increase jobs, and most importantly, improve economic performance of their administrative districts. If local courts disclose IP litigations, bureaucrats are not only depressed by the plummeting rents, but can be held accountable for potential economic stagnation in their jurisdictions. As cadre evaluation in China is highly dependent on economic indicators, local governments will refrain from implementing policies that hurts the benefits of important firms (Chen et al., 2005). Besides, some firms can skip the government and capture the local courts because local courts also perceive maximizing the local tax revenue as a lucrative mission (Shih et al., 2012; Wang, 2018). After all, it has already been demonstrated that courts engage in bribery and other forms of corruption if bothered by insufficient funding or seduced by rent-seeking opportunities, and favor some specific companies in terms of litigation outcomes (Firth et al., 2011; Wang, 2013; Wang, 2018).

### **2.2.3 Incentives of Firms**

The firms are also strategic players. Considering that disclosing details of litigations is highly risky, firms would be reluctant to see their litigations disclosed (Pitroski & Zhang, 2014; Pitroski et al., 2015). If the firms simply lose intellectual

property rights lawsuits, they will suffer loss of reputation. If firms win through preferential treatment, or there is something fishy in detailed court proceedings, suspicions against these firms can also emerge. Negative public opinions will eventually hurt these firms economically. It is also controversial to be caught in IP litigations even if the rulings are just. Judging IP infringement is hard in China, and confrontations can be fierce. In a prominent IP case, a trademark lawsuit between the two largest herbal tea factories starting from 2010 inflicted heavy losses on the entire herbal tea industry, whose products had been sold more than coca-cola in China.

### **3. Theoretical Framework**

As introduced in previous section, the diverging interests between central and local governments give rise to a principal-problem in judicial transparency. When it comes to disclosure of intellectual property litigations, the central government definitely supports wide disclosure of court rulings for the sake of its long-term survival. Local governments appear half-consenting to the mandatory disclosure requirement because disclosing information of some key local firms dim the prospects of promotion. Local judiciary is the de facto agent of local governments. As their finance is tied with the performance of local governments, they will try to avoid unnecessary disclosure. Firms involving in IP litigations will mobilize resources to cover details of their lawsuits.

Upon such institutional setting, I am interested with how different determinants shift Chinese judiciary's decision-making on transparency of IP litigations. I propose that two factors are particularly significant for courts: the ownership structure of the firm and the political connectedness of the firm.

#### ***3.1 State Ownership in China***

State-owned enterprise is a very unique player in China's market. SOEs are considered key players in spearheading national economic development and capital export (Yu, 2014). The profitability or performance of SOEs concerns local governments in two ways: SOEs are cash cows and their revenues can be reallocated for local economic projects (Jefferson, 1998), and local governments are directly responsible for SOEs' financial difficulties (Kornai, 1986).

Owing to their significance in economy and the nomenklatura system, SOEs have enormous bargaining power and advantages over other firms in China (Wang, 2015). In the meantime, Chinese courts have a long tradition of protecting governmental interests (MacNell, 2002; Potter, 1999), of which the operation of SOEs is a vital component (Firth et al., 2011). It can be expected that the ownership structure of the firm will have an effect on whether courts disclose the IP cases concerning the firm, as protection of intellectual property has become pivotal in dispute resolution after China joined the WTO. Firms would be motivated to avoid engaging in disputes regarding intellectual property rights as well, or attempt to conceal the information if they have already been engaged.

**Hypothesis 1:** A local court is less likely to disclose an intellectual property litigation involving a SOE or SOEs.

Yet protection of SOEs also comes in different degrees under different circumstances. I propose that the effect of state ownership fluctuates according to court location, court rank, and central authority.

### **3.1.1 Home Court**

Local protectionism is prevalent in China's judicial practice. For instance, local car makers, SOEs in particular, are found to be protected by the local governments in automobile market competition (Barwick et al., 2017). In addition, court ruling on IP cases strongly favors firms which share the same location as the court, especially in first instance cases (Long & Wang, 2014). This is because the local government can directly benefit from personnel arrangements and endorsement of these firms (Li et al., 2004). I assume that if the court in charge of an IP case is located at the same

administrative region as the state-backing firm involved in the case, it will actively protect the interests of that firm, including masking involvement in IP cases.

**Hypothesis 1a:** SOEs involved in IP cases are more immune to judicial transparency requirements if courts in charge are home courts.

### **3.1.2 Intermediate Court**

Second, the rank of the court can have an independent effect on the court's decision-making. Wang (2018) points out that in China, judges' incentives are highly influenced by the fiscal system. Under the current tax-sharing mechanism, most SOE tax revenue is distributed to the prefecture-level government (the principal of intermediate courts), so promotion-driven cadres at the prefecture-level governments are more interested in protecting SOEs than officials at the other levels (Shih et al. 2012).

**Hypothesis 1b:** SOEs involved in IP cases are more immune to requirements on judicial transparency if courts in charge are intermediate courts.

### **3.1.3 Central Authority**

Third, the new policy of mandatory disclosure is prone to affect how courts enforce judicial transparency, and I assume that the impact is greater in cases where SOEs are involved. Certainly, private firms have long been victims of a poor judicial system in intellectual property rights protection, while SOEs usually were not caught by poor protection of intellectual properties (Fang et al., 2017). When disclosure of judicial documents became mandatory in 2013, SOEs will get affected more because private firms are never privileged before.

**Hypothesis 1c:** After the Centre announced the new regulation of judicial disclosure, more cases involving SOEs will be disclosed, compared with cases involving non-SOEs.

### ***3.2 Political Connection***

Alternatively, political connection can be another explanation for highly biased practice of judicial transparency. One most common form of politically connected firms is firm with top executives being delegates of the People's Congress or the People's Consultative Conference (Manion, 2008). Surely, firms which have executives serving as former or present government officials at the directorate rank or higher are also considered connected (Walder, 2004). It has been observed that political connection can help reduce financial constraint (Cull et al., 2015), facilitate access to the IPO market (Liu et al., 2013), and grant tax benefits (Wu et al., 2012). Most importantly, having political connections provides an entrepreneur privileged access to court judges and officials (Ang & Jia, 2014). Company representatives are willing to establish informal ties with court personnel to influence litigation outcomes (Pei et al., 2010). Therefore, both SOEs and non-SOEs are increasingly establish relations to the central government by recruiting politically connected executives as an alternative way of building connections, as local protection does not transfer to political favoritism in all instances (Wang, 2016). The same assumption holds in terms of decision-making on judicial transparency.

**Hypothesis 2:** A Court is less likely to disclose an intellectual property litigation involving a firm with political connections.

## **4. Data and Method**

To the previous hypotheses, I conduct empirical analyses by creating a new dataset integrated from different data collections. I attach detailed thresholds to indicator variables of different hypotheses, and use Ordinary Least Square model to test the main effects and interaction effects.

### ***4.1 Data Collection***

The integrated dataset comes from two main sources and a supplemental source. In China, ordinary firms are not required to report their litigations to the public, so I cannot apply the data of all firms to the research. However, all A-share firms are required to report information of their lawsuits to the Shanghai or Shenzhen Stock Exchange as required by the revised China Securities Law in 1998, which becomes key components for my research. Thus, the process of data collection is the process of comparing baseline disclosure from listed firms with judicial disclosure on CIJO.

First, China Stock Market and Accounting Research Database (CSMAR) reserves all litigation records reported by publicly traded firms themselves since 1998. Originally, such information is uploaded to the official websites of these firms with poor details, and process tracking can be incomplete. CSMAR helps rearrange the information and add details. I gather all intellectual property litigations involving publicly traded firms and their subsidiaries since 2007, as the CIJO becomes effective in late 2006 and no IP cases were identified before 2007. Therefore, I record all 1,652 IP litigations reported by listed firms from CSMAR from 2007 to 2017. I did not collect litigations involving central SOEs, which are directly controlled by the Central People's Government. This is because central SOEs maintain direct connections with



the central government, while non-central SOEs build connections with the local agents. Centrally owned enterprises are overseen by State-owned Assets Supervision and Administration Commission of State Council (SASAC) and listed on its documents.

Next, The CIELA database contains all IP litigations files web-crawled from the CIJO platform. I visit CIELA to examine whether each case obtained from CSMAR is disclosed by courts. As CIJO only publishes litigation information after the case is finalized, I decide to drop litigations found in CSMAR after January 1, 2018 because the CIJO records end at late 2019<sup>1</sup>.

The complete sample distribution is visualized in Figure 1. Of all 1,652 cases, 118 cases receive no final results, 346 cases are solved through mediation or arbitration, 356 cases are merely about enforcement, 180 cases are withdrawn after disclosure. There are also 51 cases with important information missing. In total, I obtain 601 independent cases with enough information for further analysis. I search every case in my final sample by using keywords like firm ID, case ID, case description, data of judgment, date of disclosure and other important information. In the end, legal documents of the ruling of 297 cases were found to be disclosed by the courts, and the documents of the other 304 cases were not.

Then I self-check the accuracy of the data collection with the assistance of CJO. The CJO database began to include intellectual property litigations since 2011. I search every case from 2011 to 2017 in my sample on CJO to see if the documents are disclosed. It turns out that only 16 cases are included in the CIELA database but not

---

<sup>1</sup> The average process time of IP litigation in my collection is about 390 days, so litigations in 2018 could not appear on CIJO because they are not finalized.

recorded by CJO, and no new cases are found from the CJO database. I also reverse the order of case identification by randomly searching firm name and firm ID obtained from CSMAR in CIELA<sup>2</sup>. Finally, I check the files of 72 different listed firms. Consequently, I find no case covered by CIJO is concealed by the listed firms.

## ***4.2 Data Description***

The summary statistics of the hand-coded data is displayed in Table 1. We can observe that 49.4% of the cases are disclosed by courts in the end. 36.8% of the listed firms involved are SOEs. 51.7% of the cases are adjudicated by home courts, and 55.6% of the cases are assigned to intermediate courts. Firms have connections with the government in 59.2% of all cases, and have connections with the parliaments in only 31.9% of all cases. Listed firms won 48.6% of all cases which they disclosed, and 76.7% of the cases are first instance cases. Listed firms have an average age of 15.9 years when they were caught in an IP litigation, and the average total assets for these firms are about 604,200,000 yuan.

I also sorted the summary statistics by looking at whether the case is disclosed. The results are shown in Table 2. Generally, 76.1% of the disclosed cases involve non-SOEs while only 50.7% of the undisclosed cases involve non-SOEs. Of all cases assigned to home courts, 54.6% are not disclosed, while only 45.4% of the litigations assigned to foreign courts are not revealed. More cases are disclosed when the firm has agents in the Two Sessions than not. Listed firms won 51.9% of the cases which were disclosed by courts, but they only won 48.1% of the cases which were not disclosed. Besides, the average number of employees and average total assets of the

---

<sup>2</sup> If there are new cases involving these firms found in CIELA, it suggests that listed firms did not disclose all litigations by themselves.

listed firms whose cases are not disclosed are considerably higher than the firms whose cases are disclosed.

By examining the pattern of data collection, I also discover an important shift in court compliance at the turn of 2013, when the new regulation of SPC requires that judicial disclosure became mandatory. Figure 2 shows the number of cases disclosed and undisclosed by year. It can be observed from the histogram that only a few cases was disclosed each after before the 2013 reform , but the number of cases disclosed after the reform began to surpass the number of cases undisclosed in my sample. The number of disclosure reaches a crest in 2013. While the number of disclosed cases decreased in 2014, it kept increasing after 2014. The pattern suggests that central authority forces local courts to make adjustments at least on the macro level.

### ***4.3 Measurement***

#### **4.3.1 Dependent Variable**

The dependent variable for the main hypotheses testing is named *disclosure*. I create the variable as a dummy indicator which equals one only if the court releases the documents of the very litigation with clear statement of results, and zero otherwise. It is possible that the courts disclose documents of the second instance of a case but does not publish documents for the first instance. Thus, I treat each instance as a different case and use a new dummy indicator labeled as *First Instance* to capture that difference.

#### **4.3.2 Major Independent Variables**

I generate a unique dummy variable, *SOE*, to indicate whether the listed firm involved in the case (if the firm is the listed firm itself) or whether the parent firm (if

the firm involved in the case is a subsidiary) is a state-owned company. A state-owned enterprise is officially defined as representing the state in commercial endeavors or being fully or partially controlled by the state, and a listed company which the state or other SOEs have shares in does not simply equal to a SOE (Liu et al., 2019). If the listed firm happens to be a SOE, but the subsidiary involved in the case is not a SOE, the company will not be counted as state-owned. This adjustment will help improve the accuracy of empirical results because these firms are counted as mixed ownership in the Chinese context.

Definitions of political connections vary, and the privileged status of having such connection is often emphasized. I concentrate on two most common forms of political connections for sake of convenience in measurement: connections with the government and connections with the parliament.

Political-business revolving door is the most common way to build political connections (Khwaja & Mian, 2005; Chen, 2018). Firms hire former officials to prepare for exchange of favors between firms and government bodies. I create an indicator variable called *Government Official* to measure this kind of political connection. The dummy equals one only if the firm has at least one previous or incumbent government official with a rank of or higher than *zheng chu* level in its executive board, and zero otherwise. The cutoff point of *zheng chu* (division head level) usually distinguish political elites among others in the Chinese hierarchy of bureaucracy (Walder, 2004).

Apart from establishing relations with the government, firms can also build connections with the two Sessions by recruiting people who have delegate positions in the national or local People's Congress or People's Consultative Conference. Firms

actively seek delegate positions in order to enhance their political standing (Tsai, 2007), especially under the condition when the power of these delegates in electing new government officials and participating in policy making processes has been strengthened (Manion, 2008). I create another dummy variable *Delegate* to measure whether the firm has at least one incumbent delegate of the Two Sessions in its executive board, whose rank must be no lower than the level of the court. For example, if the case is adjudicated by an intermediate court, the indicator equals one only if the delegate is in the Two Sessions at the prefecture-level or higher. This clause ensures that the connection is timely and effective.

I also create some other important indicators for the testing of interaction effects. *Home* is a dummy indicator which measures if the court in charge of the case shares the same location with the firm. The identification of home court is specific to the level of the court. If the court is a basic court, it is a home court only when it is located at the same county-level district as the firm. If the court is an intermediate court, it is a home court when it is at least located at the same prefecture-level district. *Post 2013* is an indicator variable which equals one if the case is adjudicated after the “Provisions of the Supreme People’s Court on the Issuance of Judgments on the Internet by the People’s Court” was announced, zero otherwise. This signals that the requirement of disclosing judicial documents became nominally mandatory for courts at all levels, so I assume that courts will change behavior in accordance with the new regulation. *Intermediate* is an indicator which equals one if the court adjudicating the case is an intermediate court, zero otherwise.

I also include a series of control variables in the following empirical analysis. Description of these covariates is presented in Table 3.

#### ***4.4 Method***

For the empirical analysis of this thesis, I decide to use linear model instead of maximum likelihood estimation because OLS produces unbiased estimates. More importantly, linear model enables clear interpretation of the coefficient of the interaction terms, while estimates of interaction terms in nonlinear models do not represent true interaction effect (Norton et al., 2004). Alternatively, I include results of logit models in the robustness section.

## 5. Empirical Result

### 5.1 Main Results

#### 5.1.1 Basic Effects

I test the effects of ownership structure and political connection on the courts' compliance to judicial transparency requirements. Table 4 reports the results of OLS models. Model 1 tests the effect of *SOE* while Model 2 tests the effect of political connection. Model 3 combines the testing of two hypotheses, and Model 4 contains year, industry and province fixed effects on the basis of Model 3. The results of the full model simply show that the chance of disclosure is negatively associated with state ownership and connection with the government but positively associated with connection with the parliament. *SOE* is a statistically significant indicator at the 0.01 level. Holding all other variables constant, being a SOE is associated with 36% decrease in chance of the case being disclosed by court, compared with a non-SOE. The effect is also notably substantive. *Government Official* and *Delegate* turns to be insignificant indicators. This finding suggests that when local courts enforce IP litigation disclosure, they still prioritize the privacy of state-owned enterprises. The firm connection between SOEs and governments has a vital influence on courts in the practice of judicial practice, but personal political connections fail to change the preference of the courts.

I also observe that courts have a tendency to shield first-instance cases. If the case is a first instance case, that status is associated with 13.2% decrease in chance of disclosure. As IP cases are in most cases handed to intermediate courts and sometimes basic courts, this finding can imply that courts at level receives less pressure from the mandatory disclosure requirement than high courts. In the meantime, the litigation

result of the case is not an effective indicator at all. This implies that the local courts, either as the agent of local government or as relatively autonomous players, select the cases for disclosure based on the characteristics of the firms rather than the cases themselves. This finding echoes the assumption of courts being revenue maximizers and firms being antipathetic to case disclosure regardless of the results.

### **5.1.2 Interaction Effects**

Empirical tests on interaction effects are presented in Table 5. In the table, the first model in Table 5 examines the effects of home courts on SOEs, the second examines the effects of Intermediate courts on SOEs, and the third tests the effects of new national provisions on SOEs. For SOEs, adjudication by a home court is associated with 12.9% decrease in chance of court disclosure compared with adjudication by an away court. This interaction effect is not statistically significant. Alternatively, that courts being at intermediate level is associated with a 14.1% decrease in chance of disclosure. The interaction effect between SOE and intermediate court is nearly statistically significant ( $p=0.106$ ). These findings suggests that state-owned enterprises are hardly enjoying more local protectionism, but there are signs of relative capture on intermediate courts compared with courts of other ranks.

The insignificance of local protection can be attributed to the difference between overlap of geographical locations and real home advantage. The detailed information of the opponent is usually masked from firm disclosure because listed firms are not obliged to reveal such information. If the two sides of litigation share the same location as the court does, they are essentially on a leveling field and home advantage



is weakened. Another way to explain the phenomenon is to review the role of SOE in China. Although SOEs are important for local governments, they are not more important for their home governments. SOEs cannot freely threaten to exit from its current location as foreign-invested enterprises do (Wang, 2015). Rather, the preferential treatments given by intermediate courts substitute local protectionism. Under the current tax distribution system, IP cases involving SOEs are certainly more concerning for intermediate courts, as they are immediate beneficiaries of SOE revenues.

Meanwhile, as observed from the third model, even if the release of regulation on mandatory disclosure in 2013 is associated with increase in the chance of disclosure generally, the particular interaction effect between SOE and the year cutoff is almost negligible. This suggests that when local courts realize the rhetorical changes from the central authorities, they do not purposefully make distinctions between firm types when raising disclosure rates.

## ***5.2 Comparative Analysis of SOEs and Non-SOEs***

Beyond the main tests, I break the datasets into one dataset of SOEs and another dataset of non-SOEs. This step is used as a cross validation of judicial protection of SOEs. I apply the same set of covariates to firms with different ownership structure and survey their sensitivity to these indicators.

Table 6 presents the results. Obviously, total tangible assets of the firms play an important role in courts' decision-making, but the direction is different for different kinds of firms. SOEs with higher assets are less likely to see their cases disclosed, while non-SOEs with higher assets may experience the exact opposite. Privately-

owned big business can serve as decent negative examples in judicial practice, because courts are indifferent to their conditions. Moreover, only SOEs are able to capture intermediate courts, which is foreseeable for reasons discussed before. When the case is first-instance case, SOEs observe the chance of disclosure decreased significantly, while non-SOEs cannot. These intriguing findings suggest that when courts are able to exercise a limited autonomy, they give priority to the interests of SOEs because they should expect rewards in return.

### ***5.3 Robustness***

I did two robustness tests to further validate the main empirical results.

First, I apply a maximum likelihood approach to verify the results of the same set of hypotheses. Table 7 presents the results of logit models. The first model in Table 7 mimics the original full model, and the second model adds the interaction effects of state ownership and home court. The third model replaces home court in the interaction term with the dummy variable of whether the court is intermediate court. Not surprisingly, the hypothesis of ownership impact holds true, but the null hypothesis on political connection still cannot be rejected. Meanwhile, cases involving SOEs are less likely to be disclosed if the court in charge is a local court or an intermediate court, but the effect is still not statistically significant.

Second, I use genetic matching to achieve balance of covariates in case that the original data analysis incorporates selection bias. As demonstrated in the final sample, more than 60% of litigants in all cases are non-SOE firms, so it would be problematic if cases involving SOEs are less likely to be disclosed for reasons that cannot be studied with the sample. Nonparametric models such as matching can be effective in

controlling for selection bias (Imai, 2005). However, traditional propensity score matching could make balance even worse across confounders and the efficiency of propensity score matching is strongly subject to sample size (Sekhon, 2011). Genetic matching, a relatively new matching method, has been adopted by recent researchers to allow for maximized balance of covariates between treatment and control groups (Diamond & Sekhon, 2005; Sekhon & Grieve, 2011).

I apply genetic matching to the sample to test the significant effect of state ownership. The result of treatment effect of state ownership after genetic matching is shown in Table 8. It is true that state ownership still has a significant negative effect on court disclosure.

**Table 4: Main Results**

|                         | <i>Dependent variable:</i>         |                                  |                                     |                                  |
|-------------------------|------------------------------------|----------------------------------|-------------------------------------|----------------------------------|
|                         | Whether the case is disclosed      |                                  |                                     |                                  |
|                         | State Ownership<br>(1)             | Political Connection<br>(2)      | Full Model<br>(3)                   | Full Model<br>(4)                |
| SOE                     | -0.272 <sup>***</sup><br>(0.042)   |                                  | -0.275 <sup>***</sup><br>(0.042)    | -0.360 <sup>***</sup><br>(0.048) |
| Government Official     |                                    | -0.061<br>(0.043)                | -0.063<br>(0.041)                   | -0.069<br>(0.047)                |
| Delegate                |                                    | 0.064<br>(0.046)                 | 0.077 <sup>*</sup><br>(0.045)       | 0.032<br>(0.049)                 |
| Home                    | 0.0003<br>(0.040)                  | -0.037<br>(0.041)                | -0.004<br>(0.040)                   | 0.016<br>(0.043)                 |
| Litigation Result       | 0.061<br>(0.041)                   | 0.062<br>(0.043)                 | 0.052<br>(0.042)                    | 0.013<br>(0.043)                 |
| Firm Size               | -0.00000<br>(0.00000)              | -0.00000<br>(0.00000)            | -0.00000<br>(0.00000)               | -0.00000<br>(0.00000)            |
| Firm Age                | -0.003<br>(0.004)                  | -0.003<br>(0.004)                | -0.003<br>(0.004)                   | -0.003<br>(0.005)                |
| First Instance          | -0.114 <sup>**</sup><br>(0.048)    | -0.116 <sup>**</sup><br>(0.049)  | -0.111 <sup>**</sup><br>(0.048)     | -0.132 <sup>***</sup><br>(0.051) |
| Assets                  | 0.025 <sup>*</sup><br>(0.015)      | 0.009<br>(0.016)                 | 0.019<br>(0.015)                    | 0.024<br>(0.017)                 |
| ROA                     | -0.022<br>(0.067)                  | 0.040<br>(0.069)                 | -0.023<br>(0.067)                   | -0.092<br>(0.082)                |
| Province FE             | N                                  | N                                | N                                   | Y                                |
| Industry FE             | N                                  | N                                | N                                   | Y                                |
| Year FE                 | N                                  | N                                | N                                   | Y                                |
| Intercept               | Y                                  | Y                                | Y                                   | Y                                |
| Observations            | 598                                | 598                              | 598                                 | 562                              |
| R <sup>2</sup>          | 0.085                              | 0.025                            | 0.092                               | 0.282                            |
| Adjusted R <sup>2</sup> | 0.073                              | 0.010                            | 0.077                               | 0.200                            |
| Residual Std. Error     | 0.482 (df = 589)                   | 0.498 (df = 588)                 | 0.481 (df = 587)                    | 0.448 (df = 503)                 |
| F Statistic             | 6.862 <sup>***</sup> (df = 8; 589) | 1.680 <sup>*</sup> (df = 9; 588) | 5.962 <sup>***</sup> (df = 10; 587) |                                  |

Note:

$p < 0.1$ ;  $p < 0.05$ ;  $p < 0.01$

**Table 5: Interaction Effects**

| <i>Dependent variable:</i>    |   |                       |                       |
|-------------------------------|---|-----------------------|-----------------------|
| Whether the case is disclosed |   |                       |                       |
|                               | Local Protection                              | Intermediate Courts   | 2013 SPC Policy       |
|                               | (1)   | (2)                   | (3)                   |
| SOE                           | -0.290***<br>(0.068)                          | -0.286***<br>(0.069)  | -0.337***<br>(0.065)  |
| Intermediate                  |   | -0.022<br>(0.053)     |                       |
| Post 2013                     |   |                       | 0.100*<br>(0.056)     |
| Home                          | 0.061<br>(0.053)                              | 0.019<br>(0.043)      | 0.016<br>(0.043)      |
| Litigation Result             | 0.015<br>(0.043)                              | 0.015<br>(0.043)      | 0.011<br>(0.043)      |
| Firm Size                     | -0.00000<br>(0.00000)                         | -0.00000<br>(0.00000) | -0.00000<br>(0.00000) |
| Firm Age                      | -0.004<br>(0.005)                             | -0.002<br>(0.005)     | -0.003<br>(0.005)     |
| First Instance                | -0.139***<br>(0.051)                          | -0.126**<br>(0.051)   | -0.143***<br>(0.050)  |
| Government Official           | -0.073<br>(0.047)                             | -0.072<br>(0.047)     | -0.049<br>(0.047)     |
| Delegate                      | 0.040<br>(0.049)                              | 0.027<br>(0.049)      | 0.025<br>(0.049)      |
| Assets                        | 0.023<br>(0.017)                              | 0.025<br>(0.017)      | 0.019<br>(0.017)      |
| ROA                           | -0.089<br>(0.082)                             | -0.102<br>(0.082)     | -0.088<br>(0.081)     |
| <i>SOE*Home</i>               | -0.129<br>(0.089)                             |                       |                       |
| <i>SOE*Intermediate</i>       |   | -0.141<br>(0.087)     |                       |
| <i>SOE * Post 2013</i>        |   |                       | -0.010<br>(0.087)     |
| Province FE                   | Y   | Y                     | Y                     |
| Industry FE                   | Y   | Y                     | Y                     |
| Year FE                       | Y   | Y                     | N                     |
| Intercept                     | Y   | Y                     | Y                     |
| Observations                  | 562   | 562                   | 562                   |
| R <sup>2</sup>                | 0.285   | 0.291                 | 0.265                 |
| Adjusted R <sup>2</sup>       | 0.201   | 0.206                 | 0.193                 |
| Residual Std. Error           | 0.447 (df = 502)                              | 0.446 (df = 501)      | 0.450 (df = 511)      |
| <i>Note:</i>                  | <i>p</i> <0.1; <i>p</i> <0.05; <i>p</i> <0.01 |                       |                       |

**Table 6: Differences for SOEs and non-SOEs**

|                         | <i>Dependent variable:</i>       |                                  |                                  |
|-------------------------|----------------------------------|----------------------------------|----------------------------------|
|                         | Whether the case is disclosed    |                                  |                                  |
|                         | Local Protection<br>(1)          | Intermediate Courts<br>(2)       | 2013 SPC Policy<br>(3)           |
| SOE                     | -0.290 <sup>***</sup><br>(0.068) | -0.286 <sup>***</sup><br>(0.069) | -0.337 <sup>***</sup><br>(0.065) |
| Intermediate            |                                  | -0.022<br>(0.053)                |                                  |
| Post 2013               |                                  |                                  | 0.100 <sup>*</sup><br>(0.056)    |
| Home                    | 0.061<br>(0.053)                 | 0.019<br>(0.043)                 | 0.016<br>(0.043)                 |
| Litigation Result       | 0.015<br>(0.043)                 | 0.015<br>(0.043)                 | 0.011<br>(0.043)                 |
| Firm Size               | -0.00000<br>(0.00000)            | -0.00000<br>(0.00000)            | -0.00000<br>(0.00000)            |
| Firm Age                | -0.004<br>(0.005)                | -0.002<br>(0.005)                | -0.003<br>(0.005)                |
| First Instance          | -0.139 <sup>***</sup><br>(0.051) | -0.126 <sup>**</sup><br>(0.051)  | -0.143 <sup>***</sup><br>(0.050) |
| Government Official     | -0.073<br>(0.047)                | -0.072<br>(0.047)                | -0.049<br>(0.047)                |
| Delegate                | 0.040<br>(0.049)                 | 0.027<br>(0.049)                 | 0.025<br>(0.049)                 |
| Assets                  | 0.023<br>(0.017)                 | 0.025<br>(0.017)                 | 0.019<br>(0.017)                 |
| ROA                     | -0.089<br>(0.082)                | -0.102<br>(0.082)                | -0.088<br>(0.081)                |
| <i>SOE*Home</i>         | -0.129<br>(0.089)                |                                  |                                  |
| <i>SOE*Intermediate</i> |                                  | -0.141<br>(0.087)                |                                  |
| <i>SOE * Post 2013</i>  |                                  |                                  | -0.010<br>(0.087)                |
| Province FE             | Y                                | Y                                | Y                                |
| Industry FE             | Y                                | Y                                | Y                                |
| Year FE                 | Y                                | Y                                | N                                |
| Intercept               | Y                                | Y                                | Y                                |
| Observations            | 562                              | 562                              | 562                              |
| R <sup>2</sup>          | 0.285                            | 0.291                            | 0.265                            |
| Adjusted R <sup>2</sup> | 0.201                            | 0.206                            | 0.193                            |
| Residual Std. Error     | 0.447 (df = 502)                 | 0.446 (df = 501)                 | 0.450 (df = 511)                 |

*Note:*  $p < 0.1$ ;  $p < 0.05$ ;  $p < 0.01$

**Table 7: Logistic Regression Models**

|                              | <i>Dependent variable:</i> |                               |  |
|------------------------------|----------------------------|-------------------------------|--|
|                              | probability of disclosure  |                               |  |
|                              | Baseline<br>(1)            | Interacting Home Court<br>(2) | Interacting Intermediate Court<br>(3)                |
| SOE                          | -2.969***<br>(0.591)       | -2.960***<br>(0.702)          | -2.493***<br>(0.690)                                 |
| Home                         | 0.171<br>(0.327)           | 0.176<br>(0.398)              |  |
| Intermediate                 |                            |                               | -0.030<br>(0.415)                                    |
| Litigation Result            | 0.135<br>(0.333)           | 0.136<br>(0.334)              | 0.131<br>(0.339)                                     |
| Firm Size                    | -0.00001<br>(0.00002)      | -0.00001<br>(0.00002)         | -0.00002<br>(0.00002)                                |
| Firm Age                     | 0.032<br>(0.041)           | 0.032<br>(0.041)              | 0.040<br>(0.042)                                     |
| First Instance               | -0.588<br>(0.420)          | -0.588<br>(0.421)             | -0.442<br>(0.430)                                    |
| Government Official          | -0.357<br>(0.389)          | -0.356<br>(0.392)             | -0.440<br>(0.400)                                    |
| Delegate                     | -0.416<br>(0.454)          | -0.416<br>(0.455)             | -0.378<br>(0.472)                                    |
| Assets                       | 0.071<br>(0.124)           | 0.071<br>(0.125)              | 0.076<br>(0.125)                                     |
| <i>SOE*Home</i>              |                            | -0.017<br>(0.694)             |  |
| <i>SOE*Intermediate</i>      |                            |                               | -0.942<br>(0.649)                                    |
| Province Dummies             | Y                          | Y                             | Y  |
| Industry Dummie              | Y                          | Y                             | Y  |
| Year Dummies                 | Y                          | Y                             | Y  |
| Constant                     | Y                          | Y                             | Y  |
| Observations                 | 562                        | 562                           | 562  |
| R <sup>2</sup>               | 0.088                      | 0.088                         | 0.093  |
| Max. Possible R <sup>2</sup> | 0.344                      | 0.344                         | 0.344  |
| Log Likelihood               | -92.753                    | -92.753                       | -91.014  |
| Wald Test                    | 28.980*** (df = 9)         | 28.960*** (df = 10)           | 30.530*** (df = 10)                                  |
| LR Test                      | 51.686*** (df = 9)         | 51.686*** (df = 10)           | 55.165*** (df = 10)                                  |
| Score (Logrank) Test         | 43.949*** (df = 9)         | 43.954*** (df = 10)           | 46.540*** (df = 10)                                  |
| Note:                        |                            |                               | <i>p</i> <0.1; <b><i>p</i></b> <0.05; <i>p</i> <0.01 |

**Table 8: Genetic Matching Result**

|                         | <i>Dependent variable:</i><br>probability of disclosure |
|-------------------------|---|
| SOE                     | -0.337***<br>(0.054)                                    |
| Observations            | 416   |
| R <sup>2</sup>          | 0.255   |
| Adjusted R <sup>2</sup> | 0.160   |
| Residual Std. Error     | 0.455 (df = 368)  |
| Note:                   | <i>p</i> <0.1; <b><i>p</i></b> <0.05; <i>p</i> <0.01    |



## 6. Conclusion

In this thesis, I try to research on why authoritarian courts exercise limited autonomy in the implementation of judicial transparency. I focus on the judicial disclosure of intellectual property cases in China involving listed firms and discuss why local courts selectively disclose these cases, even if the central government expects higher level of transparency. In theoretical terms, I examined how this principal-agent problem was shaped by two different firm characteristics: ownership structure and political connections. The empirical evidence confirms that courts are less likely to disclose IP cases involving SOEs compared with cases involving non-SOEs, while personal political connections of the firms have no strong effect on changing the courts' decisions. I also test how the effect of firm ownership structure is modified by court location, court type and the 2013 policy of mandatory disclosure. It is testified that the effect of local protectionism on SOEs is not statistically significant. Further evidence on IP case disclosure also suggests that SOEs could maintain capture of intermediate courts, but the court incentives were not swung by the new mandatory disclosure policy. In summary, I confirm that Chinese courts gives priority to state-owned enterprises while ignoring informal political connections when implementing policies of judicial transparency.

This study underscores strong incentives for local authoritarian judiciary to be non-compliant in policy implementation, especially in countries where politics is fragmented and local courts dependent on local governments. In this case, courts help local government maximize opportunities of promotion through implicit influence peddling when implementing online judicial transparency. However, it only highlights

the embeddedness of elite capture in the form of long-term favoritism towards SOEs in judicial practice of authoritarian countries, not in the form of political connections. It reminds us to be cautious of the true weight of informal political connections in authoritarian politics where policy enforcement is localized and phased in by different levels of departments.

The choice of data of intellectual property cases bring about an unavoidable tradeoff between accuracy and representativeness. As I focus on a specific type of cases, I am able to work on a full sample, which avails the production of a more convincing conclusion. However, one may argue that the choice makes the difficulty of generalization in to other fields of law an inherent problem in the study. Yet, intellectual property has become a central focus of the Chinese government as a consequence of deeper market reform on IP protection after China joined the WTO, so we have reasons to believe that principal-agent problem in Chinese judiciary will follow a similar pattern as the reform begins extending to other fields of law. Another limitation of the study inherent in the research design is the way which I specify indicators of the hypotheses. For example, I collection personal profiles of firm executives to find whether a firm is connected with the government or the parliaments through key figures, but such measurement may not present the panorama of political connections. Political favoritism can be granted to a firm also because the firm has made tremendous contributions to the local economy or has adsorbed a large population of employees, even if the firm is a complete stranger to the local administrative and judicial leading bodies. Thus, statistical significance can be masked from the analyses because the measurement chosen is less accurate. Future

research on the same topic can select different measurements of political connections to capture undiscovered relations.

My findings generate implications on principal-agent problem in China's judicial practice. Local courts favor state-sponsored companies by attenuating the effect of disclosure of intellectual property cases on their management to serve their own benefits, but they are not motivated to harbor companies with informal political connections, which is theoretically valid because of the structure of the judicial system (Wang, 2015). Degree of such judicial favoritism can be relative to the rank of the court, but evidence is not strong in the specific area of judicial transparency. Furthermore, the research design also generate implications on the broader practice of authoritarian judiciary, as in many authoritarian regimes local judiciaries develop their own interest during operation and defend their own status by navigating into the fissures of other governing bodies and litigants (Magaloni & Sanchez, 2006; Pereira, 2005) despite the various control exercised by the central government (Ginsburg & Moustafa, 2008). It is worthwhile to replicate this study and use the data of judicial disclosure in other authoritarian countries to explain the incentives of local judicial institutions. Therefore, my study provides new ideas and perspectives for future studies on authoritarian judicial transparency.

## References

- Ahl, B., & Sprick, D. (2018). Towards judicial transparency in China: The new public access database for court decisions. *China Information*, 32(1), 3-22.
- Albalade, D. (2013). The institutional, economic and social determinants of local government transparency. *Journal of economic policy reform*, 16(1), 90-107.
- Ang, Y. Y., & Jia, N. (2014). Perverse complementarity: Political connections and the use of courts among private firms in China. *The Journal of Politics*, 76(2), 318-332.
- Barwick, P. J., Cao, S., & Li, S. (2017). *Local protectionism, market structure, and social welfare: China's automobile market* (No. w23678). National Bureau of Economic Research.
- Bian, R. (2018). Patent litigation in China: challenging conventional wisdom. *Berkeley Tech. LJ*, 33, 413.
- Chanin, J., & Courts, J. (2017). Examining the determinants of police department online transparency. *Criminology, Crim. Just. L & Soc'y*, 18, 52.
- Chen, F., & Xu, X. (2012). "Active judiciary": Judicial dismantling of workers' collective action in China. *The China Journal*, 67, 87-108.
- Chen, Y., Li, H., & Zhou, L. A. (2005). Relative performance evaluation and the turnover of provincial leaders in China. *Economics Letters*, 88(3), 421-425.
- Cox, A. J., & Sepetys, K. (2009). Intellectual property rights protection in China: Trends in litigation and economic damages. *Available at SSRN 1330619*.
- Cull, R., Li, W., Sun, B., & Xu, L. C. (2015). Government connections and financial constraints: Evidence from a large representative sample of Chinese firms. *Journal of Corporate Finance*, 32, 271-294.

- Diamond, A., & Sekhon, J. S. (2013). Genetic matching for estimating causal effects: A general multivariate matching method for achieving balance in observational studies. *Review of Economics and Statistics*, 95(3), 932-945.
- Fang, L. H., Lerner, J., & Wu, C. (2017). Intellectual property rights protection, ownership, and innovation: Evidence from China. *The Review of Financial Studies*, 30(7), 2446-2477.
- Finder, S. (2018). China's Translucent Judicial Transparency. *Transparency Challenges Facing China (2018); Peking University School of Transnational Law Research Paper*.
- Firth, M., Rui, O. M., & Wu, W. (2011). The effects of political connections and state ownership on corporate litigation in China. *The Journal of Law and Economics*, 54(3), 573-607.
- Gallagher, M. E. (2006). Mobilizing the law in China: "Informed disenchantment" and the development of legal consciousness. *Law & Society Review*, 40(4), 783-816.
- Gallagher, M. E. (2017). *Authoritarian legality in China: Law, workers, and the state*. Cambridge University Press.
- Ginsburg, T. (2002). "Comparative administrative procedures: evidence from Northeast Asia". *Constitutional Political Economy* 13: 247-264.
- Ginsburg, T., & Moustafa, T. (2008). *Rule by law: the politics of courts in authoritarian regimes*.
- Grendstad, G., Shaffer, W. R., & Waltenburg, E. N. (2017). Managed Openness and Transparency. *Justices and Journalists: The Global Perspective*, 235.

- Grimmelikhuijsen, S. G., & Welch, E. W. (2012). Developing and testing a theoretical framework for computer - mediated transparency of local governments. *Public administration review*, 72(4), 562-571.
- He, X. (2012). Black Hole of Responsibility: The Adjudication Committee's Role in a Chinese Court. *Law & Society Review*, 46(4), 681-712.
- Hollyer, J. R., Rosendorff, B. P., & Vreeland, J. R. (2019). Why do autocrats disclose? Economic transparency and inter-elite politics in the shadow of mass unrest. *Journal of Conflict Resolution*, 63(6), 1488-1516.
- Holmes, S., & Sunstein, C. R. (2000). *The cost of rights: why liberty depends on taxes*. WW Norton & Company.
- Imai, K. (2005). Do get-out-the-vote calls reduce turnout? The importance of statistical methods for field experiments. *American Political Science Review*, 283-300.
- Ip, E. (2012). Judicial Review in China: a positive economy analysis. *Review of Law and Economy* 8: 331-366.
- Jefferson, G. H. (1998). China's state enterprises: public goods, externalities, and Coase. *The American Economic Review*, 88(2), 428-432.
- Khwaja, A. I., & Mian, A. (2005). Do lenders favor politically connected firms? Rent provision in an emerging financial market. *The Quarterly Journal of Economics*, 120(4), 1371-1411.
- King, G., Pan, J., & Roberts, M. E. (2014). Reverse-engineering censorship in China: Randomized experimentation and participant observation. *Science*, 345(6199).
- Kornai, J. (1998). The place of the soft budget constraint syndrome in economic theory. *Journal of Comparative Economics*, 26(1), 11-17.
- Li, F., Liu, Y., & Meng, T. (2019). Discursive strategy of opinion expression and government response in China: Text analysis based on online petitions. *Telematics and Informatics*, 42, 101238.

- Li, S.T., Yongzhi, H., Yunzhong, L., & Bo, C. (2004). The Analysis on Survey of Local Protection in China Domestic Market [J]. *Economic Research Journal*, 11(78.84).
- Li, Y. (2016). *The judicial system and reform in Post-Mao China: Stumbling towards justice*. London: Routledge.
- Liebman, B. L., Roberts, M., Stern, R. E., & Wang, A. (2019). Mass digitization of chinese court decisions: How to use text as data in the field of chinese law. *21st Century China Center Research Paper*, (2017-01).
- Liu, Q., Luo, T., & Tian, G. G. (2019). How do political connections cause SOE s and non - SOE s to make different M&A decisions/performance? Evidence from China. *Accounting & Finance*, 59(4), 2579-2619.
- Liu, Q., Tang, J., & Tian, G. G. (2013). Does political capital create value in the IPO market? Evidence from China. *Journal of Corporate Finance*, 23, 395-413.
- Long, C., & Wang, J. (2014). Local judicial protectionism in China: An empirical study of people's supreme court IP cases. *China Economic Studies*, 3(3), 18.
- Lorentzen, P., Landry, P., & Yasuda, J. (2014). Undermining authoritarian innovation: the power of China's industrial giants. *The Journal of Politics*, 76(1), 182-194.
- Lu, H., Pan, H., & Zhang, C. (2015). Political connectedness and court outcomes: evidence from Chinese corporate lawsuits. *The Journal of Law and Economics*, 58(4), 829-861.
- Ma, C., Yu, X., & He, H. (2016). Dashuju Fenxi: Zhongguo Sifacaipanwenshu Shangwang Gongkaibaogao (大数据分析: 中国司法裁判文书上网公开报告) ZHONGGUO FALV PINGLUN, 4, 195-246.
- MacNeil, I. (2002). Adaptation and convergence in corporate governance: The case of Chinese listed companies. *Journal of Corporate Law Studies*, 2(2), 289-344.

- Manion, M. (2008). When communist party candidates can lose, who wins? Assessing the role of local people's congresses in the selection of leaders in China. *The China Quarterly*, 195, 607-630.
- Mertha, A. (2009). "Fragmented authoritarianism 2.0": Political pluralization in the Chinese policy process. *The China Quarterly*, 200, 995-1012.
- Ng, K. H., & He, X. (2017). *Embedded courts: Judicial decision-making in China*. Cambridge University Press.
- Norton, E. C., Wang, H., & Ai, C. (2004). Computing interaction effects and standard errors in logit and probit models. *The Stata Journal*, 4(2), 154-167.
- O'brien, K. J., & Li, L. (2006). *Rightful resistance in rural China*. Cambridge University Press.
- Tang, Y., & Liu, J. Z. (2019). Mass Publicity of Chinese Court Decisions. *China Review*, 19(2), 15-40.
- Peerenboom, R. (2002). *China's long march toward rule of law*. Cambridge: Cambridge University Press.
- Pei, S., Mellahi, K., & Thun, E. (2010). The dynamic value of MNE political embeddedness: The case of the Chinese automobile industry. *Journal of International Business Studies*, 41(7), 1161-1182.
- Piotroski, J. D., & Wong, T. J. (2012). Institutions and information environment of Chinese listed firms. In *Capitalizing China* (pp. 201-242). University of Chicago Press.
- Piotroski, J. D., Wong, T. J., & Zhang, T. (2015). Political incentives to suppress negative information: Evidence from Chinese listed firms. *Journal of Accounting Research*, 53(2), 405-459.
- Potter, P. B. (1999). The Chinese legal system: Continuing commitment to the primacy of state power. *The China Quarterly*, (159), 673-683.



- Prat, A. (2005). The wrong kind of transparency. *American economic review*, 95(3), 862-877.
- Rajah, J. (2012). *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore*. New York: Cambridge University Press.
- Sekhon, J.S. (2011). Multivariate and Propensity Score Matching Software with Automated Balance Optimization: The Matching package for R. *Journal of Statistical Software*, 42(7): 1-52. 2011.
- Sekhon, J. S., & Grieve, R. D. (2012). A matching method for improving covariate balance in cost - effectiveness analyses. *Health economics*, 21(6), 695-714.
- Shapiro, M. (1981). *Courts: A Comparative and Political Analysis*. Chicago: University of Chicago Press.
- Shih, V., Adolph, C., & Liu, M. (2012). Getting Ahead in the Communist Party: Explaining the Advancement of Central Committee Members in China. *American Political Science Review*, 106(1), 166-187.
- Silverstein G. (2008). Singapore: the exception that proves rules matter. See Ginsburg & Moustafa 2008, pp. 73–101
- Su, Li. (2000). *Song Fa Xia Xiang: Zhongguo Jiceng Sifa Zhidu Yanjiu* [Sending Law to the Countryside: A Study of Chinese Local Legal Institutions]. Beijing: Chinese Political and Law University Press (Zhongguo Zhengfa Daxue Chubanshe).
- Tsai, L. L. (2007). Solidary groups, informal accountability, and local public goods provision in rural China. *American Political Science Review*, 355-372.
- Walder, A. G. (2004). The Party elite and China's trajectory of change. *China: An International Journal*, 2(02), 189-209.

- Wall, A. M. (2006). Intellectual property protection in China: enforcing trademark rights. *Marq. Sports L. Rev.*, 17, 341.
- Wang, Y. (2014). Empowering the police: how the Chinese Communist Party manages its coercive leaders. *The China Quarterly*, 625-648.
- Wang, Y. (2015). *Tying the Autocrat's Hands*. Cambridge: Cambridge University Press.
- Wang, Y., & Minzner, C. (2015). The rise of the Chinese security state. *China Quarterly*, 339.
- Wang, Y. (2016). Beyond local protectionism: China's state-business relations in the last two decades. *The China Quarterly*, 226, 319-341.
- Wang, Y. (2018). Relative capture: quasi-experimental evidence from the Chinese judiciary. *Comparative Political Studies*, 51(8), 1012-1041.
- Wei, L., & Davis, B. (2018). Beijing grabs tech with new tenacity. *The Wall Street Journal*, 27, A1.
- Wu, W., Wu, C., Zhou, C., & Wu, J. (2012). Political connections, tax benefits and firm performance: Evidence from China. *Journal of Accounting and Public Policy*, 31(3), 277-300.
- Yu, H. (2014). The ascendancy of state-owned enterprises in China: Development, controversy and problems. *Journal of Contemporary China*, 23(85), 161-182.
- Zhang, W. (2013). *Tingshen Gongkai: Rang Gongzheng Yan Jian Wei Shi* (庭审公开: 让公正眼见为实) [*Open Trials: Let Justice Be Seen*], RENMIN FAYUAN BAO (人民法院报) [PEOPLE'S CT. DAILY].
- Zuo, W. (2015). *Zhongguo Jicengfayuan Caizhengzhidu Shizhengyanjiu* (中国基层法院财政制度实证研究), ZHONGGUO FAXUE, 1.