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Closing Open Government: Grassroots Policy Conversion of China's Open Government Information Regulation and Its Aftermath

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Abstract

How and when do opportunities for political participation through courts change under authoritarianism? Although China is better known for tight political control than for political expression, the 2008 Open Government Information (OGI) regulation ushered in a surge of political-legal activism. We draw on an original dataset of 57,095 OGI lawsuits, supplemented by interview data and government documents, to show how a feedback loop between judges and court users shaped possibilities for political activism and complaint between 2008 and 2019. Existing work suggests that authoritarian leaders crack down on legal action when they feel politically threatened. In contrast, we find that courts minted, defined, and popularized new legal labels to cut off access to justice for the super-active litigants whose lawsuits had

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come to dominate the OGI docket. This study underscores the power of procedural rules and frontline judges in shaping possibilities for political participation under authoritarianism.

Keywords
authoritarian legality, legal mobilization, Chinese politics, government transparency

Since 1970, 125 countries have passed freedom of information laws, reflecting a global trend toward greater government transparency.[1] This trend is not limited to democracies. Close to a third of states classified by Freedom House as "not free" adopted freedom of information laws between 1997 and 2020, formally guaranteeing citizens the right to ask their government for information. Why would authoritarian governments do this? The oxymoronic ring of "authoritarian transparency" has sparked a burst of scholarship on the political logic of transparency in non-democracies, with political scientists offering two prominent explanations. The first is centered on monitoring, and how those atop the political hierarchy benefit from public scrutiny of officials (Lorentzen et al., 2014; Stromseth et al., 2017), while the second suggests that transparency helps leaders mitigate threats from rival elites (Hollyer et al., 2019). These supply-side explanations are part of a broader inquiry into why so many quasi-democratic institutions are flourishing inside 21st century authoritarian states, including elections (Blaydes, 2010; Levitsky & Way, 2010; Magaloni, 2006; Manion, 2017), legislatures (Gandhi, 2008; Malesky & Schuler, 2010; Truex, 2014), and courts (Ginsburg & Moustafa, 2008; Wang, 2015).

Much less attention has been paid, however, to the demand for information in an authoritarian context. Who uses freedom of information laws, for what reason, and with how much success?[2] Empirically, this article examines demand for information in China, drawing on an original dataset of 57,095 lawsuits filed under the 2008 Open Government Information (OGI) regulation between 2014 and 2017, supplemented by insights drawn from interviews and government documents. Conceptually, we join a new generation of research inspired by the idea that legal mobilization is a form of political participation (Zemans, 1983) and answer calls to deepen our understanding of how opportunities for political participation evolve under authoritarianism (Distelhorst & Fu, 2019). China's experience with OGI litigation offers a vantage point to watch a state-society feedback loop unfold over the course of a decade, in which the boundaries of political participation were first expanded through thousands of uncoordinated lawsuits and then narrowed though court decisions and rule-making designed to solve the perceived problem of "abusive" litigation. This is an account of gradual institutional change, in

short, that illuminates a pathway by which opportunities for legal mobilization expand and shrink under authoritarianism.

To be sure, the idea that authoritarian courts are important political actors is not new. The image of courts as political umpires, however, primarily brings to mind the times when judges wade into politics either by deciding controversial cases or by using criminal law to punish regime opponents. In contrast, we offer an account of how and why courts re-draw the boundaries of political participation. For the rapidly swelling subfield of authoritarian politics, there are two broader takeaways. First, possibilities for political participation are shaped by officials who routinely interact with citizens, rather than exclusively designed by the political elites who stand at the pinnacle of the state. It is time for the field to expand beyond its current focus on the strategic choices made by dictators and their inner coterie, in other words, to more centrally consider regular contact with the courts and with the administrative state as a form of political participation. Second, political participation is an unstable equilibrium strongly shaped by access to justice. In authoritarian states that take law seriously, savvy citizens can be trusted to seize whatever legal handholds prove tractable, setting off a cycle in which courts need to decide how to respond.

Legal Mobilization under Authoritarianism

Almost 40 years ago, Zemans (1983) called on political scientists to count legal mobilization—defined as the explicit use of law in a formal institutional setting—as a form of political participation.[3] This call still resonates, perhaps even more in the 21st century than it did in the 20th. A new generation of research is exploring the collective political implications of individual decisions to publicly invoke state law, even when people turn to the law for self-interested reasons (Gallagher, 2017; Taylor, 2018). In particular, the idea that legal mobilization is a form of political participation is foundational for the rapidly expanding literature on authoritarian legality. An important strand of this literature treats legal mobilization as an independent variable and debates the potential of political change by legal means. Especially when there are no elections, legal language and forums offer a critical vocabulary and venue to challenge the status quo. In a best case scenario, litigation can serve as "an effective tool of political theater" (Moustafa, 2007, p. 40) and stretch the horizon of what is politically possible. In Myanmar, to take one example, LGBT activists successfully used the courts to push forward the notion that the rights of sexual minorities deserve legal protection (Chua, 2018). At the same time, plenty of evidence exposes the limits of legal activism under authoritarianism. Access to justice is stubbornly unequal, in authoritarian regimes as well as in democracies (Ang & Jia, 2014; Gallagher, 2017), and authoritarian courts are far better-known for repressing political opposition under the mantle of legality than for supporting any kind of political resistance (Moustafa, 2007; Rajah, 2012).

Rather than weighing in on the debate over the possibilities of political change by legal means, this article flips the causal arrow to investigate how and why opportunities for legal mobilization shift. Here, existing research treats longitudinal change as an outgrowth of elite politics. The assumption is that top political leaders crack down on the politicized use of courts when they feel threatened, perhaps by firing judges, disbarring politically active lawyers, or cutting off financial support for the organizations bringing politically sensitive cases (Moustafa, 2003). This type of repression is rapid and highly visible, typically attracting press attention.

Drawing inspiration from historical institutionalist accounts of policy conversion, we present an alternative account of gradual institutional change under authoritarianism. Policy conversion—in our case, of China's OGI regulation—occurs when people "convert the institution to new goals, functions or purposes" by exploiting ambiguity in the law (Mahoney & Thelen, 2010, pp. 17–18). Viewed through this lens, China's OGI plaintiffs are opportunists whose individual decisions to "exploit whatever possibilities exist within the prevailing system" collectively turned OGI litigation into a forum first for political activism and then into a substitute for the state-run complaint process known as petitioning (Mahoney & Thelen, 2010, p. 26). But policy conversion can also be undone, and the Chinese courts resisted being repurposed into either a venue for political activism or complaint. We detail how they did so, by branding certain types of OGI lawsuits as out-of-bounds examples of "consultation" or "abusive litigation," thus changing what socio-legal scholars call the "legal opportunity structure" (Vanhala, 2012).

Of course, the creation of categories to ease workflow, and make work easier, is hardly unique to China or even to courts. Writing about 1960s and 1970s America, political scientist Michael Lipsky notes how labels such as "criminal," "juvenile delinquent," "welfare mother," and "slow learner" serve as a "signal…[to society] to treat people differently," and treat them as less worthy of help (2010 [1980], p. 69). In China, we document a strong association between the courts labeling a case as an example of "abusive litigation" or "consultation" and citizens losing in court. We also offer an account of how the Chinese courts minted and popularized these new legal categories and, in so doing, join others in treating legal opportunities as dynamic, and as shaped by the interactions between judges and claimants (Taylor, 2020; Vanhala, 2018). In contrast to the dominant elite politics explanation of how and why opportunities for legal activism shrink under authoritarianism, the feedback loop we illustrate—of grassroots policy conversion followed by bureaucratic resistance—is slow-moving and low visibility. It took over a decade for the process to unfold in our case and, like many bureaucratic rule changes, new limits on the possibilities for political participation via OGI litigation largely escaped public notice.

China's OGI Regulation in Comparative Perspective

The architects of China's OGI policy did not necessarily anticipate the extent to which Chinese citizens would re-purpose OGI litigation as a vehicle for political demands. Zhou Hanhua, a Chinese legal scholar involved in drafting the 2008 regulation, discusses two primary goals (2002). The first was to keep the economy running smoothly by improving information flow, especially following China's accession to the World Trade Organization in 2001, and the second was to curb corruption through public scrutiny of officials.[4] Zhou's account of China's original legislative intent places China alongside many countries, including the United States and the European Union, as a case where transparency laws were designated to improve government accountability (Ackerman & Sandoval-Ballesteros, 2006; Bennett, 1997) and ease economic growth and investment (Vishwanath & Kaufmann, 2001). In retrospect, 2008 also marked a high point of interest in learning from the West's legal experience. Chinese legal reformers were well aware of the global trend toward transparency and, at least for some, having a domestic access-to-information law was part of updating the Chinese legal system to place it on par with any other in the world.

China's OGI regulation quickly attracted the attention of researchers, many of whom immediately saw the ability to request information as a political act (Chen 2016, 2017; Distelhorst, 2017; Horsley, 2007, 2010; Shaw, 2011). This first generation of research recognized straightaway that China blurs the distinction that public administration scholars sometimes try to draw between "private" and "public" requests (Michener & Worthy, 2018). Although requests for information in China are often connected to a demand for government compensation, they are also a public, political demand to redistribute who gets what, why, and how. There are many good examples in the English language literature of the blurry boundary between private interest and public accountability. One comes from Guangdong province, where a group of homeowners turned to the brand-new OGI regulation in 2008 to pester the government about why they were offered unfairly low compensation for land seized for development (Distelhorst, 2017, pp. 479–482).

We follow others in viewing China's OGI regulation through a political prism, but diverge to take a longer view of the 11 years between 2008 (when the regulation took effect) and 2019 (when it was amended). Information disclosure, as others have noted, "put[s] the [political] system into disequilibrium" by introducing tensions between grassroots political participation and the overarching imperative of maintaining stability (Wang, 2018, p. 922). In the case of OGI, this disequilibrium was particularly pronounced because requesting government information proved extremely popular. The number of OGI requests skyrocketed from 380,000 requests in the 5 years between 2008

and 2012, to 3.40 million requests in the 5 years between 2013 and 2018 (Wu, 2019).[5] Looking at a longer time frame allows us to trace how this disequilibrium evolved through interactions between litigants and judges, and eventually settled into a new resting spot as courts responded to what they saw as a crisis of abusive litigation. Framed broadly, China is a case where legalizing a right to information led to unintended consequences. The more typical story, though, has been that transparency laws are seized to expose the scandals of the very politicians who championed them (e.g., Michener & Worthy, 2018, pp. 479–480, on the United Kingdom and India; Schnell, 2018, on Romania). In contrast, China's story of unanticipated consequences is one of grassroots social change, in which self-interested citizens turned the right to request information into a channel for political activism and complaint, placing the onus on Chinese judges to respond.

Data and Methods[6]

Our dataset contains 57,095 OGI court decisions filed between January 2014 and December 2017, and publicly released on a website run by the Supreme People's Court (SPC) called "China Court Judgments" (中国裁判文书网).[7] Litigation typically arises when a citizen is not satisfied with a government agency's reply, or lack of reply. Geographically, the dataset includes cases from every Chinese province or provincial-level region except Tibet.[8] Temporally, the dataset shows a sharp jump in cases between 2014 and 2015, with a relatively even distribution from 2015 through 2017 (Table 1). In keeping with the conventional wisdom that many OGI lawsuits grow out of grievances related to state-initiated housing demolition or land acquisition (Zheng, 2017, p. 27), 61.6% of cases in our dataset were filed against government agencies with land-related responsibilities, such as the Ministry of Land and Resources.[9]

What kind of information is available in Chinese court decisions? Chinese court decisions, including OGI cases, start by listing the court name, case type, case number, and a list of all parties (the plaintiff, the defendant, any third parties, and the lawyers or legal representatives involved in the case). The full name of the plaintiff (typically a citizen) is available in 97.5% of cases in our dataset, with other demographic information including gender, birth date, and ethnicity available in 46.1%

Table 1. Distribution of Open Government Information cases by year.

Year	Number of Cases	Percent, %
2014	8164	14.30
2015	15,923	27.89
2016	17,219	30.16
2017	15,789	27.65

of cases. Using this information, we were able to identify 32,556 unique citizen-plaintiffs. The main text follows, including a summary of the case, the claims of each party, and a list of evidence. For OGI cases, the text typically includes the date and content of the plaintiff's information request as well as the defendant's reply. The judgment closes with the court's decision, including citations to relevant laws, the names of the judges and court personnel present at the hearing, and the date of decision. Methodologically, the key innovation of this paper is the creation of a parser capable of accurately coding whether a case was won or lost. We did this by creating a list of key terms associated with winning and losing, an iterative process that involved going back and forth between reading hundreds of cases and refining the code (see Supplementary Material A). The final win-loss parser achieved an accuracy rate of 99.2% compared with 400 human-coded cases.

Missing data is a concern in any dataset that relies on cases published on the China Court Judgments website (Liebman et al., 2020). However, a comparison of provincial statistics in 30 provinces and the number of cases available in our dataset from those provinces suggests our dataset is fairly complete.[10] Aggregated by year, our dataset covers an average of 91.3% of official counts.[11] To be conservative, we also follow two other strategies recommended by Liebman et al. (2020) as ways to draw conclusions from a large but incomplete dataset: making sure all trends discussed in the paper also hold true for the 292 high transparency courts that we estimate published over 90% of administrative decisions,[12] and triangulating with evidence from semi-structured interviews with 15 Chinese lawyers and five academics conducted by Author 1 in June 2019 in Beijing and Chengdu (Supplementary Material C).[13] Interviews with lawyers were particularly helpful in understanding who files OGI cases and for what purpose, what experienced lawyers count as success, and the factors lawyers consider important in predicting success.

Who Are the Litigants? The Two Hemispheres of OGI Litigation

Who files OGI cases? Seventy nine percent of the 32,556 litigants in our dataset only file one or two cases, which is perhaps the behavior we would expect from citizens requesting a specific piece of information from the government (Figure 1).[14] What is more surprising is the presence of a minority of extremely active court users: 3.1% of litigants file ten or more cases, comprising 33.4% of total cases (19,047 of 57,095). We call litigants who have filed ten or more cases "super litigants," in contrast to the vast majority of "one-shotters" who file less than ten cases.[15] Our terminology echoes Marc Galanter's classic division between "one shotters," defined as "claimants who have only occasional recourse to the courts," and repeat players (1974, p. 97). Unlike typical repeat players, however, super litigants in Chinese OGI lawsuits are neither rich nor powerful. Rather, this is the unusual case in which the repeat players are society's "have nots."

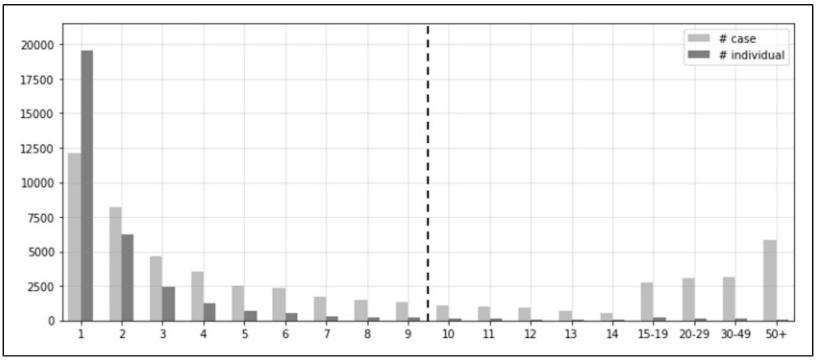

Figure 1. Distribution of cases and individuals by the number of cases per individual. *Note*: For the value of *x*-axis that is 1, the number of individuals exceeds the number of cases due to cases with multiple plaintiffs. We associate such multiple-plaintiff case with an individual who has filed the highest number of cases among them.

Table 2. Two hemispheres of Open Government Information litigation[17].

	One shotters	Super litigants
Occupation	*Farmer/villager 60.6%*	Farmer/villager 43.4%
	No occupation 17.7%	*No occupation 29.7%*
	Company employee 12.3%	Company employee 14.2%
	Freelancer 4.4%	Freelancer 7.1%
	Teacher 1.4%	*Government official 3.1%*
Legal representation	*27.8%*	8.6%
Location	Beijing 11.9%	*Beijing 24.6%*
	Jiangsu 11.3%	*Shanghai 11.3%*
	Henan 9.4%	Henan 9.7%
	Zhejiang 7.4%	Jiangsu 8.5%
Defendant agency	*Land and housing 63.4%*	Land and housing 57.9%
	Public security 16.4%	*Public security 22.8%*

Note: Text in italic indicates statistics that show a statistically significant difference between one shotters and super litigants with *p*-value less than 0.01. For occupation, the unit of analysis is each litigant with a listed occupation ($n = 4497$). For lawyer representation, location, defendant agency, and defendant rank, the unit of analysis is the case ($n = 57{,}095$).

Table 2 highlights key differences between super litigants and one-shotters. Super litigants are more likely to lack a fixed occupation and to have work experience in government. Lawyer representation is a key difference as well, with one-shotters three times more likely to be represented by lawyers

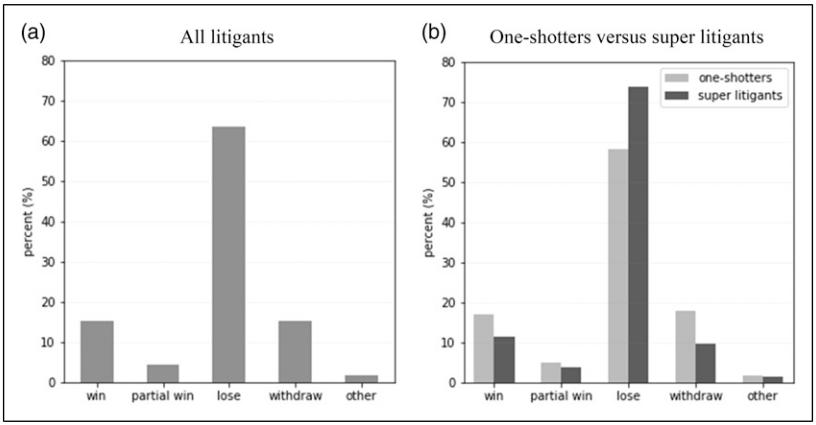

Figure 2. Citizen litigation outcomes. (a) All litigants. (b) One-shotters versus super litigants. *Note*: Typical cases in the "other" category were either not accepted by the court or transferred to another court.

(27.8%) than super litigants (8.6%). Cases involving super litigants are also regionally concentrated in Beijing[16] and Shanghai and are more likely to involve requests for information directed at the public security bureau or the central government in Beijing.

Most important, super litigants and one shotters enjoy different success rates in OGI lawsuits (Figure 2). In our dataset, citizens win court support for at least one of their claims 19.7% of the time, or in roughly one out of five OGI lawsuits.[18] The odds start to lengthen, however, for super litigants: super litigants win just 15.3% of OGI lawsuits, compared to 21.9% for one-shotters. The regression analysis that appears in Supplementary Material D shows that the difference in win–loss results for the two groups is statistically significant even after controlling for legal representation, the number of plaintiffs and defendants, defendants' rank and agency, location of the lawsuit, and year.[19] One-shotters also withdraw their lawsuits 18% of the time, compared to just 9.7% for super litigants.[20]

Jiang Zucheng, a farmer who lives on the outskirts of Chongqing, is a good example of a super litigant who is average in many respects, with a just-below-average win rate of 17.5%. For Jiang, as for many OGI litigants, the underlying dispute was over compensation for housing demolition. The district government sent Jiang's mother 81,213 RMB (~US$13,050 USD) in 2014, although no one in the family had ever agreed to the deal. Jiang went on to request information from government agencies from the township up to the central government and filed lawsuits when they proved

unresponsive. Most of his requests were for documents to help determine the legality of the government's land seizure, such as a land acquisition boundary map, or information about land acquisition procedures.[21] And yet, court records show that Jiang rapidly branched out to request information about other topics as well. He asked the Chongqing Judicial Bureau, for example, for information about whether an Intermediate Court judge who had ruled against him in an earlier lawsuit cheated on the bar exam.[22] He also sued the Chongqing Environmental Protection Bureau for information about a construction project that disturbed his family's sleep.[23] What was Jiang's strategy in filing this increasingly wide range of cases? Although we were not able to ask him directly, the next section lays out the logic of OGI litigation as both a legal strategy and a type of political participation.

What Is the Game? Why Do Super Litigants and One Shotters Use OGI Litigation?

Why do citizens file OGI lawsuits when there is only a one-in-five chance of success, and winning in most cases only means a court order for the government to re-reply to a request for information? The immediate answer is that the odds of success in OGI cases compare favorably to the overall win rate in administrative litigation, which was 14.2% between 2014 and 2017 in the 659,897 administrative cases available in our larger database.[24] OGI cases are also inexpensive and easy to file. The case filing fee is only 50 RMB (~7 USD), which is cut in half if the plaintiff withdraws,[25] and anyone who has filed a request for information has the right to later sue (Wang, 2017, p. 24). In addition, the key legal question in OGI cases is straightforward: whether a government agency issued an appropriate reply within 20 business days.[26] Many litigants are able to file the necessary legal documents without help from a lawyer, as evidenced by the high pro se rate in our dataset (78.6%). The combination of low barriers to entry with low expected rewards has made OGI litigation into "a means to an end, [rather than] an end in itself," as several OGI lawyers explained (BJ-L3; also, BJ-L1; BJ-L2; BJ-L4). This is true for both one-shotters and super litigants and, in this section, we detail how OGI litigation serves as both a legal strategy and a contested mode of political participation.

First, both one-shotters and super litigants use OGI as a tool for discovery to turn up evidence for another lawsuit in which money is at stake. Prising documents out of government agencies with little incentive to cooperate can be hard (Stern, 2013, pp. 56–57), especially in administrative litigation, and the idea is to compel disclosure through OGI litigation. Many OGI lawsuits grow out of grievances related to state-initiated housing demolition or land acquisition, and unearthing evidence to support plaintiffs' demands is an

important legal strategy. One lawyer who specializes in land-related litigation coaches his clients to file OGI requests to confirm facts and in the hope of uncovering illegal government action (BJ-L1). In a land acquisition dispute, for example, useful documents might include the project approval, land use rights approval, and planning permission, all of which should be disclosed by law. It can also be useful to confirm the non-existence of documents. Citizens sometimes make an OGI request hoping to hear that "the information does not exist (信息不存在)," a standard phrase which implies that the government neglected its duty by failing to compile documentation (BJ-L1). Of course, government agencies can also dodge such an admission with a vague response, such as "our unit does not have that information" or "the information is currently unavailable," which obscures whether documents exist (BJ-L1; BJ-L3). Requesting the right documents and correctly interpreting the agency's response are now a valuable part of administrative lawyers' skill set, as OGI cases often sit at what one lawyer called "the intersection" of other administrative claims (BJ-L4). As OGI lawsuits have become more routinized, this legal strategy has become sufficiently common that some legal scholars writing in Chinese call it a "hidden rule" (潜规则) of administrative litigation (Zheng, 2017, p. 29).

In English language writing about OGI in China, the better-known story is that it sometimes serves as a form of political activism (Distelhorst, 2017). One of the most experienced OGI lawyers in our dataset, who has represented hundreds of plaintiffs, is one such activist. He self-identifies as a "rights protection lawyer" (维权律师), a label often chosen by Chinese lawyers self-consciously trying to use litigation to prompt social and political change, and views himself as a crusader against corruption. He explains the goals of OGI litigation as three-fold:

> "Through OGI, you first acquire evidence. Second, it prevents local officials from interfering in your case…and third, it [allows you] to engage in complaint and accusation … on the surface, it is requesting information disclosure, but in fact it is complaining about and accusing [local officials] of violating the Eight-point Regulations of the Center [a set of anti-corruption rules]. That is to say, information disclosure is not a simple information disclosure; you should learn and apply it pragmatically." (BJ-L2)

The lawyer's third goal is explicitly political. By way of illustration, he talked about a time when he helped a group of disgruntled employees who had been laid off without receiving a promised stock grant request documentation approving an expensive swordfish dinner hosted by company managers during an environmental inspection (BJ-L2). This documentation obviously did not exist. Rather, the purpose of the lawsuit was to publicly suggest the presence of a quid pro quo—a fancy dinner in exchange for a lax inspection—and to

attract the attention of the media and of higher officials. The case married the employees' resentment over money and unfair treatment with the lawyer's commitment to exposing corruption, with the aim of punishing the company and perhaps even launching a local investigation into corruption.

In this case, OGI litigation was a vehicle for political activism. As political scientist Greg Distelhorst notes, one unintended effect of the OGI regulation was that it offered activists "an opportunity to cloak potentially transgressive claims in official language and channels of participation" (Distelhorst, 2017, p. 487). Chinese citizens recognized this opportunity straightway and started filing OGI requests with a political cast as soon as the law was passed. One of the first examples of this type of political participation was citizen Wu Junliang's 2008 campaign to request budget information from 37 local governments and central ministries, which was widely reported in the Chinese media (Distelhorst, 2017, pp. 482–484). For Wu, the underlying cause was government accountability, and he was counting on media coverage to bring public attention to the issue. However, cause-driven legal activism has diminished in recent years. Since General Secretary Xi Jinping came to power in 2012, lawyers and plaintiffs with an activist bent have found themselves under increasing government scrutiny, often openly discouraged from activism and sometimes placed under surveillance or arrest. Indeed, the activist lawyer we interviewed noted that most of his OGI cases date back several years, and identified 2013-2014 as the peak of OGI activism (BJ-L2).

Instead, OGI litigation has become a substitute for complaints to and about government, which we follow others in comparative politics as conceptualizing as "an essentially political act" (Kruks-Wisner, 2021). More specifically, OGI litigation has turned into a substitute for the Chinese complaint process known as petitioning, a system set up in 1951 to allow Chinese citizens to formally alert the authorities to injustice and request help to right a wrong (Minzner, 2006, p. 115). Petitioning has long been a distinctive form of Chinese political participation, although there have been explicit efforts under Xi Jinping to push more petitions into the court system (Guang & Su, 2019, p. 171). The impetus to channel disputes into the legal system and, away from the petition system, stems from the recognition that petitioning can generate unrest as well as solve it. Persistent petitioners routinely spend years in cycles of fruitless complaint, with frustration also occasionally spilling over into public protest.[27] Yet drawing petitioners into the legal system has not been a panacea either. Drawing on just over a thousand cases filed in 2014 and writing in Chinese, legal scholar Zheng Tao insightfully documents the parallel political-legal logic of petitions and multiple OGI lawsuits filed by angry and persistent super litigants. There are signs, too, that some local governments are aware of how closely OGI super litigants resemble petitioners. One of the court decisions in our dataset features a complaint from city officials in Zhejiang province that petitioners "transformed" into OGI

requesters, thus "severely interfering" with daily administrative work of government.[28] Indeed, it makes sense that OGI litigation and petitioning would be close substitutes, as both are an inexpensive and easy way to make demands, though also unlikely to resolve the underlying problem.[29]

Building on Zheng (2017), we use our larger dataset to support his observation that super litigants appropriated OGI litigation as a substitute for petitioning[30] and use court documents to illustrate the similarities between these two modes of political complaint.[31] Like petitioners, and unlike activists motivated by a cause, many litigants turn to OGI litigation following a personally experienced injustice, and in the hopes of using court proceedings to pressure the government for more compensation or at least an explanation or apology. Often, the financial stakes are in plain view: 29.4% of the court decisions in our corpus include references to either "additional compensation" (补偿) or "compensation" (赔偿). For example, a 2015 OGI case in Anhui Province originated with the demolition of a family home in order to build a ring road in Xuancheng City. Five siblings filed 293 OGI requests related to the demolition, which the Anhui Provincial Court later judged to be aimed at "seeking private gain" (求私利) rather than information, and "using a lawsuit to attack the other party" rather than to seek a judicial remedy.[32] Sometimes, too, plaintiffs want an acknowledgment of wrongdoing, even after receiving money. A mother named Yu Jianfeng, for example, started to file OGI lawsuits 5 years after her daughter's rape and subsequent forced transfer out of a prestigious middle school in Guangdong province, even though she had already received 100,000 RMB (~14,167 USD) of compensation from the local government. Yu told reporters that she wanted "justice," an expansive goal which the narrow scope of OGI litigation transformed into a far more limited demand for an explanation of why the school mandated the transfer (People's Daily, 2013). Yu's litigation successfully pressed the city education bureau to investigate the issue, though the only result was to tell Yu that that transfer had been recommended for the girl's health and development.

Emotional expression is another shared characteristic of petitioning and OGI lawsuits. At least for some OGI lawyers and litigants, publicly venting anger is an important goal separate from the outcome of litigation (BJ-L3).[33] Courts promise a public space where plaintiffs can engage with the government on an equal footing,[34] as a government representative is supposed to attend all administrative court hearings.[35] Even if the government representative fails to show up, as often happens (He, 2018, pp. 167–168), the possibility of a face-to-face confrontation can be an appealing prospect. A desire for revenge, a close cousin of anger, can also be a motivation. One way to get revenge is through OGI requests designed to embarrass officials. In a 2017 case in Henan province, for example, an angry plaintiff requested personal information about two municipal police officers, including their test scores, the cost of treating their sexually transmitted diseases, and how many

prostitutes they had visited.[36] Open Government Information litigation, then, can be re-purposed as "weapon of the weak," a means of retribution wielded by ordinary people to resist the social reality that policemen and judges are ordinarily untouchable (Scott, 1985). Even forcing a government representative to show up in court is a form of minor retribution, as the time spent in court places them behind on other pressing tasks.

Collectively, super litigants have turned OGI litigation into a form of political complaint. This was not a coordinated effort, although some litigants may have learned from others, but rather the cumulative result of thousands of individual lawsuits. As a result, OGI litigation diverged from its original legislative intent, to the point where government-side OGI lawyers complained about policy conversion in interviews (BJ-L4; BJ-L5; CD-L1). As one lawyer put it, these plaintiffs "do not understand the original intent of OGI….[their] OGI requests are for 'other' purposes…[such as] petitioning and expressing discontent" (BJ-L5). Viewed comparatively, this type of grassroots policy conversion contrasts with classic examples of elite-led policy conversion spearheaded by organized interests with long time horizons and lots of resources (Hacker et al., 2015). In post-Mao China, however, grassroots policy conversion is a well-documented feature of the political landscape. For students of Chinese politics, the re-purposing of OGI litigation as a form of political complaint is only the latest example of what is sometimes called "non-coordinated collective action," where policy reforms grow out of the cumulative effect of scores of individual choices.[37]

Closing the Courthouse Door

How did the Chinese courts react to citizens repurposing OGI litigation first as a form of political activism, and then as a type of political complaint? On one hand, rising caseloads benefit courts and judges in some ways. The number of administrative lawsuits is counted in the annual evaluation for many courts, and rising numbers can be marshalled by court leaders to argue that they are safeguarding a public right to legally express their demands (Zheng, 2017). Individual judges, too, are often evaluated on how many cases they resolve within time limits (Kinkel & Hurst, 2015), which can be boosted by OGI cases which are typically quick to decide. On the other hand, even straightforward OGI lawsuits add to judges' workload, exacerbating the problem of "too many cases and too few judges" (案多人少). Judicial overwork worsened during the time period of our analysis too. Personnel reforms trimmed judges' ranks from 211,990 to just 120,000 by June 2017, even as reforms in 2015 made it harder for courts to reject cases (Yu, Forthcoming).[38] China's courts accepted 58% more cases between 2013 and 2017 than across the previous 5 years (Zhou, 2018) and, against this backdrop of rising caseloads, the irritation caused by OGI litigation began to outweigh the benefits. Starting in late 2015, a series of

court decisions began closing the courthouse door to OGI litigants, particularly super litigants, effectively shrinking the boundaries of permissible political participation. Our data enable us to track how two legal labels designed to limit OGI litigation percolated through the court system, in both cases becoming more widespread after winning endorsement from the SPC, and eventually being written into national regulations.

The first legal label is "abusive" (滥用), or the idea that repetitive information requests and lawsuits waste judicial resources. In 2014, the first reference in our dataset to "malicious abuse of [the right to] information" appears in a decision from a lower court in Jiangsu Province.[39] A year later, the same court proffered the first definition of abusive litigation in a case brought by a plaintiff named Lu Hongxia.[40] The number of requests, the degree of duplication between requests, and the specificity of requests should all matter,[41] the district court suggested, along with court's assessment of the plaintiff's purpose. This definition was used to dismiss Lu's 94 requests for information because the court concluded that she mainly wanted to "express a mood of dissatisfaction," evidenced by the fact that Lu ignored warnings that her lawsuit would fail.[42] As Peking University law professor Peng Chun notes, the Lu decision was an "open exercise of judicial activism in an attempt to provide a solution to a problem (or in many people's view a crisis) [of abusive OGI requests and litigation] facing both the government and the judiciary" (Peng, 2016, p. 333). The SPC Gazette published the decision in November 2015, an honor reserved for decisions seen as "a correct application of the law in the eyes of the SPC...worthy of promotion at the highest level of China's judicial hierarchy" (Peng, 2016, p. 321).[43] Figure 3(a) shows the "abusive" label diffusing through the court system after the Lu decision, appearing in 631 decisions involving super litigants and 263 decisions involving one-shotters across 125 courts between 2014 and 2017.[44]

As the idea of abusive litigation was entering legal circulation in connection with OGI cases, the courts also adopted another less direct yet powerful strategy to combat super litigants: categorizing vague requests for information as out-of-bounds examples of "consultation" (咨询), and dismissing them.[45] As with the idea of abusive litigation, the consultation label first appears in our dataset in a decision by a lower court.[46] The first instance in our dataset of a High People's Court mentioning consultation came the following year,[47] and the SPC picked up the term in the 2016 Sun Changrong case in a decision that also clarified that instances of consultation do not necessitate a government reply. The SPC Gazette published the Sun Changrong decision in December 2016, as it had done the previous year for the Lu Hongxia decision. Figure 3(b) shows a sharp increase in the number of courts nationwide labeling vague information requests as "consultation" following this public endorsement by China's highest court.[48] By the time of our 2019

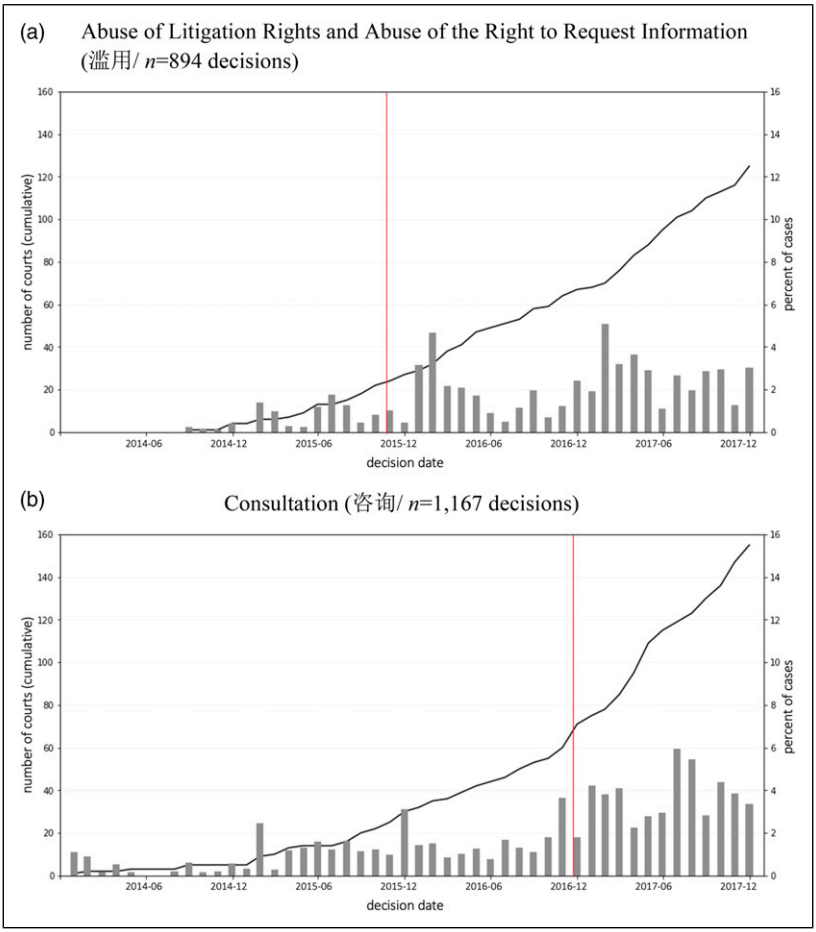

Figure 3. Diffusion of court-created labels by percent of cases. (a) Abuse of Litigation Rights and Abuse of the Right to Request Information (滥用/*n* = 894 decisions). (b) Consultation (咨询/*n* = 1167 decisions). *Note*: The line indicates the cumulative number of courts that have ever used the label, and the bars indicate the percent of labeled cases by month. The vertical line marks the publication of Lu Hongxia case and Sun Changrong case, for panels (a) and (b) respectively, in the SPC Gazette.

interviews, experienced OGI lawyers knew the specificity of the request matters. As one government-side OGI lawyer put it, citizens "have to give an exact title of documents" or else the request is "just petitioning (信访) or complaining (投诉)" (BJ-L4).

After publishing the Lu and Sun decisions in the SPC Gazette, already a signal of support from China's highest court, the SPC next went a step further

and issued national guidance to lower courts on how to identify super litigants and remove them from the courtroom. A 2017 SPC opinion, a document meant to provide guidance on how to handle ambiguous areas of law or procedure, targets "the growing phenomenon of people who abuse the right to sue and waste judicial resources" and calls on lower courts to stop the abuse of litigation rights.[49] Article 16 directly addresses OGI litigation and offers guidelines for when courts should refuse cases that fall under the rubric of "abusive litigation" or "consultation." Courts are directed to turn away plaintiffs that "obviously violate the legislative purpose of the OGI regulation" by filing requests or lawsuits repeatedly, as well as those filing requests that require additional work for government agencies to process.[50] Both of these definitions found their way into the 2019 revisions to the OGI regulation, which borrows language from the 2017 SPC opinion in Articles 35 and 38, albeit without directly using the terms "abuse" or "consultation."[51] In addition, Article 39 of the revised law spells out that government agencies can re-direct requesters to other channels if they are using OGI to petition or complain. Although these 2019 revisions stop short of a complete ban on super litigants, they show antipathy toward those trying to re-purpose OGI litigation as a means of political complaint.

Even before the 2019 revisions to the OGI regulation, though, our data show that the labels of "abusive litigation" and "consultation" were already functioning as a heuristic shortcut to brand and dismiss cases. Both labels are strongly associated with losses: plaintiffs lose 92.6% of cases that courts label "abusive," and 92.3% of cases labeled "consultation." The association is even more pronounced for super litigants, where loss rates reach 97.3% for cases labeled "abusive" and 94.7% for cases counted as examples of "consultation."[52] Table 3 periodizes our data to show how the loss rate for super litigants rose continuously between 2014 and 2017, as the courts gradually narrowed their definition of what counts as meritorious OGI litigation. Steep jumps in the loss rate follow two important signals from the SPC, the publication of the

Table 3. Citizen loss rate (2014-2017).

	One-shotters	Super litigants
Before the Lu Hongxia case (January 1, 2014–November 30, 2015)	54.0% (n = 12,569)	68.6% (n = 6885)
Lu Hongxia–2017 SPC opinion (December 1, 2015–August 31, 2017)	60.0% (n = 19,949)	75.3% (n = 9777)
After SPC opinion (September 1, 2017–December 31, 2017)	61.3% (n = 5470)	82.4% (n = 2369)

Note: Citizen loss rates changed little after the publication of Sun Changrong case in December 2016. SPC = Supreme People's Court.

Lu Hongxia case (November 2016) and the SPC opinion (August 2017). In December 2017, the final month of our dataset, super litigants' loss rate reached 88.1%, compared to 65.3% for one-shotters.

From the perspective of the Chinese courts, placing limits on OGI litigation was a pragmatic necessity. Rank and file judges saw OGI lawsuits as a nuisance, particularly because the judicial remedy at hand—releasing government information—so rarely resolved the underlying dispute. The legal concepts of abusive litigation and consultation were used first by lower courts, and these ideas diffused upward through the court hierarchy, ultimately winning endorsement, and further explication, from the SPC. On one level, the decision to trim back opportunities for OGI litigation aligned the courts with broader political currents. China under Xi has proved more interested in controlling and limiting avenues for political participation than in expanding them. It was also in keeping with the courts' historical reluctance to tiptoe into activism by using OGI ligation to press for government accountability, especially in cases that could lead to social unrest (Chen, 2016). At the same time, however, the steps described here to narrow the scope of OGI litigation were local and pragmatic, rather than central and baldly political. The evolution of OGI litigation grew out of a search for legal solutions that could help Chinese administrative judges manage the fallout of high-level policies that pushed petitioners into the courtroom and also reduced the number of judges. Seen from this vantage point, limits on OGI litigation were a sensible step that insulated judges a bit from public anger and also freed time for other work.

Conclusion

When a super litigant files dozens of OGI lawsuits, is that a meaningful form of political participation? That is a hard question to answer, especially without information about what happened after the OGI court decision. Future research along these lines would be welcome, along with deeper qualitative work exploring whether super litigants—either in China or elsewhere—find satisfaction in the judicial process, or only alienation. What we can say is that OGI litigation prior to 2019 was an active channel of political participation that gave lower- and middle-class super litigants a way to prod the state, even if the lawsuit itself failed (as it often did). Being irritating can be a political act and is often the only option for groups iced out of other forms of political participation. Super litigants are both stubborn abusers of judicial resources, as the Chinese courts would certainly argue, and also a political underclass doing whatever they can to get attention. In so far as court proceedings bring public scrutiny to disputes, they can also pressure government to resolve a problem. The narrowing of OGI litigation, then, made it harder for Chinese citizens to amplify public pressure on government, although of course social media remains a powerful tool.

The first decade of OGI litigation in China is also a reminder that citizens are adept advocates for themselves, well-capable of re-imagining and transforming quasi-democratic institutions by using them. It also reminds us political participation is broader than voting and needs to include legal action. Authoritarian courts are important political actors, not only because they decide cases, but because they often write the legal and procedural regulations that govern access to courts. For students of state-society relations, the implication is that understanding changes in opportunities for political participation under authoritarianism is difficult without complicating the classic two-player game that pits citizens against the political leadership. At a minimum, bureaucratic incentives matter too. When the Chinese courts took steps to push super litigants out of the courtroom, their immediate motivation was prosaic: the need to manage workload and to bolster judges' sense of efficacy by limiting time spent on intractable disputes poorly matched to the legal remedies at hand.

For those who study courts around the world, the case of OGI litigation in contemporary China illuminates a feedback loop—of grassroots policy conversion followed by judicial pushback—which is likely to be widespread (i.e., found in many legal systems) and recursive (i.e., recurring within a legal system). A lot hinges on judicial receptivity, and whether judges prove amenable or hostile to new types of claims. Indeed, recent research on Colombia shows the reverse dynamic. Colombian judges supported health-related claims made through an inexpensive form of constitutional litigation called the *tutela*, giving rise to a new jurisprudence of health-related legal rights (Taylor, 2020). What was the difference between Colombia and China? More work remains to be done on the determinants of judicial receptivity, though it is already clear that popular sympathy for plaintiffs matters. Colombian judges saw a social problem exposed by litigation, while Chinese judges were far more likely to see an intransigent individual. Role conception is also likely to be important, as judges trained to see themselves as apolitical legal technicians are far less likely to feel empowered to tackle solve social problems (Hilbink, 2007).

Finally, the case of OGI litigation in China underscores that procedural rules shape possibilities for legal mobilization, a truism that connects research on courts and politics across regime type. Democratic courts can also routinely be found re-writing procedural rules in ways that have important consequences for political participation. The United States Supreme Court, to take just one well-known example, placed limits on class action litigation in the late 1960s and early 1970s by making it more difficult to certify a class (Burbank, 2008, p. 1491). As several round-ups of research on authoritarian legality note (Chua, 2019; Moustafa, 2014), the divide separating authoritarian and democratic courts can be overdrawn. Across regime type, courts might re-write procedural rules for political reasons, but also to better manage their workload. Seeing courts exclusively through the lens of authoritarianism can

be limiting. For all that courts take on some of the character of the regime, the quotidian pressures of workload, resource limitations, and performance measures matter too.

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Supplementary Material

Supplementary material for this article is available online.

Notes

1. A list of Freedom of Information laws around the world is available through the Global Right to Information Rating (https://www.rti-rating.org).
2. One exception is Berliner et al. (2018), which looks at demand for information in Mexico.
3. Our definition of legal mobilization is shortened from Lehoucq and Taylor (2020), who define legal mobilization as "the use of law in an explicit, self-conscious way through the invocation of a formal institutional mechanism" (p. 168).
4. On how the OGI regulation was connected to WTO accession, see Horsley (2007, pp. 61-62). Most English-language writing about OGI in China, however, highlights the monitoring function (e.g., Lorentzen et al., 2014; Stromseth et al., 2017; Wang, 2018).
5. As early as 2010, observers noted the "dynamism of the Chinese public's response to this new channel for interacting with their government, evidence of the

increasing awareness of their rights and interests as citizens and taxpayers of the People's Republic" (Horsley, 2010).

6. Replication materials and code can be found at Kim et al. (2021).
7. The OGI dataset was drawn from a larger database of over 44 million cases, which we believe includes all cases publicly released on the SPC website between January 1, 2014, and September 2, 2018. We screened cases for inclusion in the OGI dataset as follows. First, we selected all cases (107,058) that included the term "open information" (信息公开) in the text. Then, we screened out cases that mention OGI only in passing, such as litigation related to "open village affairs" (村务公开), a separate policy from OGI. We also eliminated duplicate cases, which typically appear due to administrative error, and irregular cases where our parser failed to extract either the citizen or government parties. Finally, we subset our data to only include cases filed between 2014 and 2017.
8. The largest number of cases are from Beijing (9198 cases, 16.11%), followed by Jiangsu province (5899 cases, 10.33%) and Henan province (5418 cases, 9.49%).
9. This is a lower-bound estimate, as some plaintiffs with complaints over land sue other government agencies as well.
10. All local governments at the county level or above publish annual OGI reports, which include the number of OGI lawsuits filed against all government units in their jurisdiction.
11. Our dataset covers 95.67% of official counts in 2014, 100.16% in 2015, 85.93% in 2016, and 83.44% in 2017. When aggregated by province, our dataset includes also more than 90% of official counts in 18 out of 30 provinces (Supplementary Material B). For some provinces, our dataset includes more cases than counted in provincial statistics. One possible explanation is that local governments count cases involving multiple plaintiffs or defendants once, even though courts docket them as separate cases. And of course, there could also be errors in government statistics or in our method of grabbing OGI cases.
12. These estimates are based on German-tank solution (Wu et al., 2021). There are 1,820 courts in our dataset.
13. We used the OGI dataset to create a list of lawyers with experience handling multiple OGI cases and contacted them whenever we could find a public email, WeChat account, or phone number. Several lawyers were also introduced by professors at Chinese law schools. Interviews lasted between 1 and 2 hours in either a one-on-one setting or a group setting, at a location of the interviewee's choosing, and were conducted in Mandarin Chinese. Ideally, we would also have interviewed Chinese judges, but this proved impossible in the current political climate.
14. We treated plaintiffs with the same name, gender, birthdate, and ethnicity as a unique litigant (16,669 litigants). Those who lack demographic information were identified as a unique litigant based only on the same name (15,887 litigants). We acknowledge this approach runs the risk of erroneously treating different people

with the same name as one person, which could inflate the number of super litigants.

15. We adopt a threshold of ten, as interviews with Chinese lawyers suggest that filing up to five cases at a time is common (BJ-L7). Citizens often file multiple lawsuits because they do not know which government agency possesses the information they want and appeals of these cases could easily amount to ten cases. Zheng (2017) notes the existence of super litigants but calls them "professional litigants" (诉讼专业户) instead.
16. One possible reason why super litigants are overrepresented in Beijing is that they file lawsuits against central government agencies which are tried in Beijing. Excluding lawsuits against central government agencies, however, super litigants are still overrepresented in Beijing (21.0%), compared to one shotters (9.5%).
17. We do not find a significant difference between one shotters and super litigants in terms of birth year, gender, or ethnicity. The average litigant birth year in the dataset is 1963, 31% of litigants are female, and 96% are Han Chinese.
18. Here, we lump together full wins and partial wins to calculate the overall win rate. A partial win means that at least one of the citizen's litigation demands was supported by the court.
19. These results remain robust across three alternative approaches: (1) adding interaction terms between the type of plaintiff (super litigant or one-shotter) and some other variables; (2) replacing a binary variable (super litigant or one-shotter) with a continuous variable (the logged value of the number of cases per individual); and (3) limiting the analysis to 7,735 cases from 292 high transparency courts. For more descriptive statistics on case volume and win-loss rates, see Supplementary Material E.
20. Court documents do not say why a case was withdrawn, which makes it hard to tell if one-shotters are better at getting information or if super litigants are less likely to heed political warnings to quit. Most likely, the answer is both. One-shotters may be better able to persuade the government to release information, perhaps through interventions by lawyers or well-connected friends, or perhaps because the dispute is more tractable to compromise. It is also clear that super litigants are persistent, and refusal to withdraw litigation matches the behavior pattern of filing dozens of lawsuits in the first place.
21. Jiang Zucheng v. the Chongqing Administration of Land, Resources and Housing, and the Land and Resources Management Branch of Jiangbei District in Chongqing Municipality [原告蒋祖成与被告重庆市国土资源和房屋管理局, 重庆市江北区国土资源管理分局], Jiangbei District People's Court, Chongqing Municipality [重庆市江北区人民法院], November 23, 2015; Jiang Zucheng v. Chongqing Jiangbei District People's Government [蒋祖成诉重庆市江北区人民政府], Chongqing High People's Court [重庆市高级人民法院], October 12, 2015.

22. Jiang Zucheng v. the Chongqing Justice Bureau [原告蒋祖成与被告重庆市司法局], Jiangbei District People's Court, Chongqing Municipality [重庆市江北区人民法院], November 3, 2015.
23. Jiang Zucheng v. the Chongqing Environmental Protection Bureau [蒋祖成与重庆市环境保护局], Yubei District People's Court, Chongqing Municipality [重庆市渝北区人民法院], August 1, 2016.
24. This is a calculation of the partial and full win rate. It falls to 10.7% if we consider full wins only. Numbers from the SPC Research Office Statistics Division place citizen's win rate in administrative litigation in a similar ballpark, at 13.4% in 2016 (He, 2018, pp. 184–185).
25. 50 RMB is the standard filing fee for administrative litigation in China, and our interviewees confirmed that there are no additional fees in OGI cases (BJ-L3; BJ-L4; BJ-L11).
26. The original 2008 OGI Regulation stipulated that governments should provide a reply within 15 business days (Article 24), extended to 20 days in the 2019 revisions (Article 33). Article 36 lays out the standard for what counts as an appropriate reply.
27. In one sample of 1,205 petition cases, 12% were accompanied by a public disturbance (slogan shouting, banner waving, road blocking, etc.) (Guang & Su, 2019, p. 175). This gives a rough estimate of the frequency of public protest, though public national statistics about petitioning are scarce.
28. Chen Zhenquan v. the Housing and Urban-Rural Planning and Construction Bureau of Tongxiang City [陈振铨与桐乡市住房和城乡规划建设局], Tongxiang City People's Court, Zhejiang Province [浙江省桐乡市人民法院], November 27, 2015.
29. Chinese sociologist Yu Jianrong provides one of the only estimates of petitioners' success rate. Based on a 2004 survey of 632 petitioners in Beijing, he estimates the odds of success at just 0.2% (cited in Guang & Su, 2019, p. 170).
30. Zheng (2017) describes this as the "petition-ization" (信访化) of OGI litigation.
31. About 9.6% of our corpus explicitly mentions petitioning (信访 or 上访), slightly more often among one-shotters (10.0%) than among super litigants (8.9%). This should be viewed as lower-bound estimate, as there is no guarantee that court decisions will acknowledge a previous history of petitioning. The term petition typically appears in OGI cases to describe plaintiff's interactions with petition offices. Less commonly, judges characterize the plaintiff's behavior as similar to petitioning.
32. Li Hong v. the Xuancheng Municipal People's Government [李红诉宣城市人民政府], Anhui High People's Court [安徽省高级人民法院], March 7, 2016.
33. 636 court decisions involving super litigants in our dataset include the phrase "expressing dissatisfaction" (表达不满), roughly equivalent to an official court note that the plaintiff was visibly angry.
34. Thanks to Yuhua Wang for suggesting this point.

35. China's Administrative Litigation Law (ALL) started mandating the attendance of a government representative at all administrative court hearings following revisions which went into effect in 2015 (see Article 3).
36. Shao Hua v. the Public Security Bureau of Xiangfu District in Kaifeng Municipality [邵华与开封市祥符区公安局], Weishi District People's Court, Henan Province [河南省尉氏县人民法院], August 9, 2017.
37. One well-known example is the role Chinese farmers played in pioneering economic policy changes after Mao, particularly de-collectivization (Zhou, 1996).
38. Reforms to the case registration system were designed to prevent courts from rejecting difficult cases and stipulate that the legal merit of a complaint should be assessed *after* a case is filed rather than at the court door.
39. Our dataset starts in 2014, and this is likely not the first time a Chinese court talked about citizens abusing the right to litigation or the right to request information. Tian Shuhua v. the Public Security Bureau of Nantong Municipality [田书华与南通市公安局], Gangzha District People's Court, Nantong Municipality, Jiangsu Province [江苏省南通市港闸区人民法院], August 14, 2014.
40. Lu Hongxia v. the Development and Reform Commission of Nantong Municipality [陆红霞与南通市发展和改革委员会], Gangzha District People's Court, Nantong Municipality, Jiangsu Province [江苏省南通市港闸区人民法院], February 27, 2015. Available at https://perma.cc/KP8J-QBFP.
41. Wide-ranging requests are framed as a sign of abusive litigation. For example, Lu had asked for information about food standards in detention centers and for the license plate numbers of government vehicles.
42. Lu Hongxia v. the Development and Reform Commission of Nantong Municipality.
43. The decision attracted criticism from both judges and legal academics. For a good summary, see Peng (2016), pp. 323–327.
44. We searched for cases containing the term "abuse" (滥用) in the holding section, but not "abuse of authority [by government officials]" (滥用职权), a common use of the term in a different context. Court decisions sometimes reference the abuse of litigation rights (滥用诉讼权利) and sometimes discuss the abuse of the right to request information (滥用信息公开申请权). We differentiate between the two whenever possible in the text, though also default to the term "abusive litigation." We audited a sample of 894 cases containing the term "abusive" to make sure that the court is labeling litigants' behavior as "abusive," rather than the behavior of government officials or other parties involved in the case. One-shotters are also occasionally labeled as "abusive," usually because they made a huge number of OGI requests, even though they ended up filing a small number of lawsuits.
45. In our dataset, 1178 cases contain the variants of the "consultation" label in the holding section. These include: (1) "belongs to consultation (属于咨询)"; (2) "[in] essence…consultation (本质/实质…咨询)"); (3) " has the nature of consultation (咨询性质)."

46. The term "consultation" first appears in our dataset in a case decided on January 16, 2014, though the label likely existed before then. See Zhao Jihua v. the Planning and Land Resources Administration of Shanghai Municipality [赵继华不服上海市规划和国土资源管理局], Huangpu People's Court, Shanghai Municipality [上海市黄浦区人民法院], January 16, 2014.
47. Zhang Deyan and others v. Beijing Haidian District People's Government [张德艳等与北京市海淀区人民政府], Beijing Municipality High People's Court [北京市高级人民法院], April 27, 2015.
48. Sun Changrong v. Jilin Provincial People's Government [孙长荣诉吉林省人民政府], the Supreme People's Court [最高人民法院], May 12, 2016, available at https://perma.cc/HA37-QKTS. Sun had requested information about whether a 1999 notice issued by the Jilin provincial housing department was still in effect.
49. See "Several Opinions of the Supreme People's Court on Further Protecting and Regulating the Legal Exercise of Administrative Litigation Rights by the Parties" [最高人民法院关于进一步保护和规范当事人依法行使行政诉权的若干意见], available at https://perma.cc/A5NZ-BKBA. For an English translation, see https://perma.cc/3K78-CSF2.
50. This definition of abusive litigation closely tracks the Lu decision. The idea that government agencies are not obligated to do additional work to produce information re-purposes language from a 2011 SPC circular on OGI, "Provisions of the Supreme People's Court on Several Issues concerning the Trial of Administrative Cases about Open Government Information" [最高人民法院关于审理政府信息公开行政案件若干问题的规定], available at https://perma.cc/65B6-SLAF. For an English translation, see https://perma.cc/4YSL-27K5.
51. See "Open Government Information Regulation of the People's Republic of China (2019 Revision)" [中华人民共和国政府信息公开条例 (2019修订)], available at https://perma.cc/BVJ8-VXCG. For an English translation, see https://perma.cc/NY6X-7ARB.
52. The rare wins come in cases where the government made an obvious procedural mistake.

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