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State-Sponsored Activism: How China's Law Reforms Impact NGOs' Legal Practice

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This study examines legal opportunity in China after the recent "law-based governance" reforms, including those that have professionalized the judiciary, established NGOs' public interest standing, and expanded legal aid coverage. Based on in-depth interviews, it finds that despite the generally tightening political control over the social sector, the reforms have helped some law-related NGOs expand their litigation practice, social and legislative influence, and domestic funding sources. At the same time, these changes have had considerable cooptation effects by aligning these NGOs' interests with the state's and channeling their activities into state-sanctioned institutional processes. The findings suggest that states can effectively utilize a dualist strategy that combines restrictive and supportive approaches to public participation in the legal process. It thus sheds light on the progression of legality within various political and institutional contexts.

INTRODUCTION

Many scholarly works present an increasingly bleak picture of the unfavorable political and legal conditions faced by law-related NGOs under authoritarianism. For instance, Jothie Rajah and Arun K. Thiruvengadam document the disciplinary action and arbitrary detentions faced by members of the Singaporean Law Society, while Freek van der Vet describes how under Putin, Russian NGO lawyers face unfair courts, random enforcement of repressive laws, and shrinking financial resources (Rajah and Thiruvengadam 2013; van der Vet 2018). In the past several years, academic attention to this topic has focused on China, partly due to what many perceive as heightening enmity toward civil society (D. Fu and Distelhorst 2018; Teets and Almén 2018). In particular, scholars have highlighted the new limitations on cause lawyering[1] and a

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1. Scholars recognize that the term "cause lawyering" lacks a strict and agreed-upon definition, as the activity can take a range of forms depending on historical and cultural contexts (Hilbink 2004). In particular, "[i]n authoritarian settings, cause lawyering is cast in a largely defensive role" (Sarat and Scheingold 1998, 5). As the present study focuses on law-related NGOs under authoritarian regimes, it adopts a broader understanding of the term rather than using it to refer only to controversial or politically charged cases. It thus defines "cause lawyering" as acts that use law and legal skills to advance a particular moral vision of society; such acts range from representing political dissidents in court to providing free labor law advice to migrant workers.

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series of restrictive laws on NGOs' operations and finances (H. Fu 2018; Pils 2018; Y. Wang 2020b; Zhu and Lu 2022). In some ways, these developments are unsurprising in light of what Tamir Moustafa terms "court-civil society synergy"—the idea that vibrant legal activism can transform the judiciary into a main venue for challenging the state (Moustafa 2003; Y. Wang 2020b).

That being said, a closer empirical inquiry paints a more nuanced picture that suggests authoritarian regimes may also selectively promote organized cause lawyering under certain circumstances. This study is based on in-depth interviews with employees of sixteen law-related NGOs continuing to operate in China as of 2021 in fields such as environmental protection, LGBTQ rights, women's rights, children's rights, labor issues, criminal defense, legal services for other NGOs, and general legal aid for the poor. It finds that some of these organizations expanded their legal operations, policy influence, and domestic funding sources over the past several years, owing largely to new state policies under the umbrella of "law-based governance" (依法治国). These seemingly counterintuitive findings shed light on authoritarian regimes' approaches to legal NGOs—and legality more generally—within different political and institutional contexts.

The next section discusses the literature on legal opportunity under authoritarian regimes and China's recent shift toward a dualist approach to law-related NGOs. This is followed by a section that outlines the empirical methodology of the authors' fieldwork. A third section briefly describes the policy context, which mainly comprises the major legal reforms of the current administration, such as the judicial reforms and legislation that grants NGOs standing to bring public interest litigation. The empirical section presents the evidence collected through fieldwork, showing how various law-related NGOs have fared under the new policies. The findings demonstrate that some interviewed organizations managed to grow their legal operations by adapting to—and thereby benefiting from—the shifting policy landscape. The final section summarizes the empirical evidence and discusses its implications for understanding legality and state-society relations within authoritarian contexts.

LEGAL OPPORTUNITY UNDER AUTHORITARIANISM: TOWARD A DUALIST MODEL?

In recent decades, scholars have paid significant attention to the study of legal opportunity—factors that influence whether (and to what extent) courts are used to advance social movements.[2] Introducing the concept, Hilson describes legal opportunity as comprising three main components: "access to justice such as laws on standing," "the availability of state legal funding," and "judicial receptivity to policy arguments" (Hilson 2002, 243–44). Various studies on social movements under democracies confirm that these conditions are indeed critical to NGOs' ability and willingness to advance their causes through the judiciary (Epp 1998; Andersen 2005; Alter and Vargas 2000; B. M. Wilson and Rodríguez Cordero 2006). For instance, scholars have pointed out how India's establishment of the Public Interest Litigation system—which gives citizens standing to sue on behalf of the disadvantaged—enabled NGOs to

2. For a summary on this literature, see Vanhala 2012.

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successfully challenge many central and state policies on constitutional grounds (Mate 2015; Rosenberg, Krishnaswamy, and Bail 2019).

It is therefore unsurprising that authoritarian regimes around the world have restricted legal opportunity to minimize court-based resistance to their reigns. Building on Epp's theory that the success of court-based rights movements in the U.S. "depend[s] on . . . a support structure of right-advocacy lawyers, right-advocacy organizations, and sources of financing," Moustafa identified a similar court-civil society synergy in authoritarian Egypt (Epp 1998, 18; Moustafa 2003). According to Moustafa, the combination of the relatively independent Supreme Constitutional Court and various foreign-funded legal NGOs enabled human rights advocates to systematically—and often successfully—challenge the former Egyptian President Hosni Mubarak regime's repressive policies through litigation (Moustafa 2007). Such a synergy can seriously undermine authoritarian rule through a state-approved channel, especially when a regime attempts to boost its legitimacy by professionalizing and empowering the judiciary (Solomon 2008; He 2020; Trochev and Solomon 2018). Consequently, states often suppress this synergy by creating unfavorable legal opportunity structures for law-related NGOs, such as by dissolving these organizations for threatening "public order or public morality," disciplining their lawyers for professional misconduct, or restricting their access to foreign funding (Moustafa 2007; Rajah and Thiruvengadam 2013; van der Vet 2018).

In some ways, China is no exception to this trend. During the former Chinese President Hu Jintao era (2002–2012), the government maintained a relatively mild and fragmented stance toward even some radical forms of legal mobilization (Liebman 2013; Y. Wang 2020b). The period was characterized by a lack of coherent national policy on civil society, which allowed space for NGOs to actively participate in the political process by devising tactical adaptations that combined self-censorship with boundary-pushing behavior (D. Fu 2017; Stern and O'Brien 2012). Consequently, there was a significant surge in the number and activities of rights lawyers and law-related NGOs during this period, despite the state's unclear policies and general wariness toward the sector (H. Fu 2014; H. Fu and Cullen 2011; He 2014).

This situation has changed significantly under the current Chinese administration. Amid ambitious judicial reforms that aim to make the courts more autonomous and professional, the administration has put severe and systematic constraints on some types of cause lawyering organizations to prevent them from turning the increasingly powerful judiciary into sites of resistance (Y. Wang 2020b; He 2020). A notable example is the so-called 709 Incident, in which the security apparatus detained, interrogated, or warned more than two hundred activists across multiple provinces for their legal work (H. Fu 2018; Pils 2018). The incident and subsequent containment over similar organizations reportedly forced many rights lawyers to either "[go] underground or [retreat] from the work" (Palmer 2017; William Yang 2019). The situation was exacerbated by the enactment of restrictive legislation, such as the 2016 Overseas NGO Law, which among other things, makes it much harder for activists to access foreign funds (Feng 2017). Some scholars thus conclude that the legal opportunity for court-based political rights movements has shrunk considerably under the current administration (H. Fu 2018; Y. Wang 2020b; Zhu and Lu 2022).

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However, these constraints are only part of the story. An understudied aspect of legal opportunity under authoritarianism is how such states may selectively boost NGOs' legal opportunity to serve the regimes' own ends. Some studies have touched upon this topic by analyzing China's recent policies for co-opting lawyers. For instance, Rachel Stern and Lawrence J. Liu describe how China crafted a "groundbreaking" state-sanctioned notion of "the good lawyer" who is "[loyal] to the Party and limits his or her advocacy to state-approved channels of political participation, such as case-by-case legal aid and providing input on new policies," through means such as a politicized bar exam, professional regulations, and the official Outstanding Lawyer awards (Stern and Liu 2020, 242–43). Similarly, Hualing Fu and Han Zhu point out that the Chinese Communist Party is adopting a series of reforms—including a larger legal aid budget, compulsory legal aid for criminal defendants, and promotion of public interest litigation—to "coopt lawyers into the institutional process" and "take oxygen out of the fire of the human rights lawyers-led social-legal activism" (H. Fu and Zhu 2018, 1154–56; H. Fu 2020).

It is therefore more accurate to characterize China's recent changes in legal opportunity structure not as mere increases in political pressure but as a transition from a vague and fragmented model to a clear dualist one. Under the new model, the "fragmented authoritarianism" that allowed localized adaptation and political boundary-pushing has been replaced by a more coherent national approach that removes any organization that poses "a credible threat to the regime's tools for maintaining control," as illustrated by the 709 Incident and the enactment of the Overseas NGO Law (Moustafa 2003, 925). On the other hand, the state also began opening its legal system to some of the remaining organizations through new national policies and legislation. Indeed, the government has actively encouraged some groups to participate in the judicial process by offering financial incentives and opportunities for positive media exposure. In other words, the political and legal gray area in which many law-related NGOs used to operate has been significantly reduced. In its place is a dualist structure in which any perceived threats of court-civil society synergy are eliminated while other actors are given more opportunity to participate in the legal system.

Although seemingly contradictory, the two sides of this dualist approach can be mutually reinforcing. Liebman identifies a "law-stability paradox" in China—similar to Moustafa's analysis on court-civil society synergy—that suggests an authoritarian regime's legal reforms can be hampered by its fear of the social contention generated by the judicial process (Liebman 2014). Regarding legal opportunity structure, this paradox means that an authoritarian regime is unlikely to open the judiciary to NGOs that it deems threatening to stability. Put differently, if such a regime wants to incorporate NGOs into its governing coalition by improving their access to the legal system, it requires the ability to effectively eliminate any groups it perceives as threats. The political containment described by scholars—including the 709 Incident—serves as a screening mechanism, removing perceived threats from the ranks of the country's law-related NGOs. This mechanism paves the way for reforms that open the legal system to societal actors—or more precisely, to the remaining ones that present minimal political risk. In turn, such reforms will likely co-opt the remaining groups by

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incorporating them into the formal legal process, thus further reducing their potential threat to the regime.

This legal opportunity policy transition can be viewed as part of a broader dualist tendency in authoritarian regimes' approach to law. In his 1941 book, Ernst Fraenkel developed the theory of the dual state, which comprises a normative state that operates according to the law and a prerogative state unconstrained by legal guarantees (Fraenkel 2017). Scholars find that modern authoritarian states, such as Singapore and Russia, similarly act according to rule-of-law principles under most mundane situations while frequently asserting control over legal issues with political significance (Hendley 2011; Trochev and Solomon 2018; Rajah 2011). The same phenomenon has been observed in China, especially following the recent judicial reforms that professionalized the courts but left formal channels for political intervention intact (H. Fu 2019; He 2020). In some ways, the party-state's new approach to legal opportunity—with its divergent policies toward "regular" NGOs and those it deems politically threatening—fits well with the broader dualist model. However, unlike reforming the court system, opening the legal process to NGOs—which are relatively independent from state—is inherently riskier and therefore usually avoided by authoritarian regimes (Plantan 2018). China's attempt thus represents another "massive, revolutionary experiment in whether an authoritarian state can harness the power of law without ceding political control" (Stern 2017, 326).

There are two important yet largely unanswered questions about this experiment: has it improved the legal opportunity of the NGOs that have not been eliminated, and to what extent has it helped the state co-opt these societal actors into the governing structure? Earlier related studies—such as those by Stern and Liu and Fu and Zhu—either do not focus on law-related NGOs and cause lawyering or offer limited empirical evidence on the recent policies' impacts on legal activism. It thus remains to be seen whether—and to what extent—the party-state has improved the legal opportunity of Chinese NGOs amid its generally tightening control over civil society. The present study offers the first comprehensive empirical inquiry into the impacts of the current administration's various reforms that affect law-related NGOs. Through in-depth interviews with employees of law-related NGOs that address diverse issues, the study aims to assess the impact of the administration's ambitious law-based governance reforms on these organizations' legal practices. Specifically, it looks at how the reform measures—such as the new public interest standings, increased legal aid funds, and professionalization of the judiciary—affect the NGOs' litigation operations, finances, legislative influence, and media relations. The evidence suggests that some remaining NGOs have indeed benefited from the recent policies, though the new environment has also caused them to increasingly channel their activities through officially sanctioned institutional venues and further align with the state's objectives. The findings confirm the effectiveness of China's strategy of combining repressive and supportive approaches to public participation in the legal process.

The effectiveness of China's dualist approach also has broader implications for understanding legality and state-society relations within nondemocratic settings. Unlike China, other authoritarian countries often choose wholesale suppression of

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cause lawyering, notwithstanding their shared trend of "turning toward law" in recent decades (Ginsburg and Moustafa 2008; Plantan 2018). Ironically, China's comparative leniency toward some law-related NGOs comes largely from its superior ability to assert control over society. Civil society actors in countries such as Mubarak-era Egypt or contemporary Russia generally retain some political space to openly defy the state due to their countries' nominally democratic systems. Largely unbounded by such constitutional formalities, China can more effectively and preemptively control the political risks associated with legal mobilization by limiting international advocacy, mass mobilization, and media campaigns. This coercive capacity helps the party-state to selectively open its legal system to NGOs without worrying about threats (real or perceived) to social stability or national security. This study thus adds to the growing evidence that despite the apparently increasing appetite for dualist legal systems among authoritarian states, not all have equal potential to institutionalize such a system.

METHODOLOGY

This study is based on semi-structured interviews conducted by the authors in 2021 with employees of law-related NGOs still operating in China as of that year. These organizations were chosen primarily for their long-term legal practices, which allowed the authors to assess the impact of the recent reforms. The interviews were arranged either through acquaintances of the authors who worked in or had long-term connections with these NGOs or through snowball sampling. Altogether, the authors conducted twenty-seven interviews with employees from sixteen NGOs. They are headquartered in Beijing, Zhejiang, Sichuan, Guizhou, Anhui, Yunnan, and Guangdong, though their litigation operations often extend to other provinces.

The law-related NGOs included in this study represent a variety of fields and political leanings. The selected organizations work in various areas, including environmental protection, LGBTQ rights, women's rights, children's rights, labor issues, criminal defense, legal services for other NGOs, and general legal aid for the poor. They also encompass diverse political standpoints, especially regarding their relationships with the Chinese government and foreign donors. On one end of the spectrum are state-adjacent NGOs like Zhicheng Migrant Worker Legal Aid Center and All-China Environment Federation, which are closely connected to relevant government agencies and receive most of their funding from government sources. On the other end are more politically marginalized groups like Qianqian Law Firm, which have more contentious relationships with the state and primarily derive funding from overseas donors. Most of the NGOs included in this study sit somewhere between these two extremes, aiming to maintain collaborations with both the government and international organizations as well as generate income from diverse sources. The sample does not include organizations that can no longer engage in law-related practice, such as the Fengrui law firm that was abolished during the

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709 Incident. These exclusions are appropriate for the study's primary objective of assessing how the recent reforms have influenced China's remaining law-related NGOs.

The interview questions focused on how the current administration's law-related reforms have influenced the NGOs' legal practices and on other relevant issues, including the organizations' personnel and finances. The following were typical questions:

(1) With regard to your legal practice, what would you say have been the most impactful legislative/policy changes in the past decade? Why?
(2) How have these changes influenced the type and volume of cases you handle?
(3) How have these changes influenced litigation procedures and outcomes?
(4) How have these changes influenced your organization's financial situation?
(5) How have these changes influenced your relationship with the media?
(6) How have these changes influenced your relationship with the government?

These questions comprised a general interview guide for the authors. If an interviewee appeared particularly knowledgeable about or interested in a specific topic, the authors would encourage deeper conversation. The authors also asked follow-up questions not included in the list above. Interviews typically lasted between one and two hours.

There are some potential biases in the interviewees' answers to these questions. As discussed above, the interviewees were from NGOs able to continue their law-related practices—meaning that they have survived the wide-ranging policies against cause lawyering during the past several years. This suggests that these organizations are more aligned with the government or more cautious in their practices, especially compared to groups that once worked in the same fields but have been forced to cease operations. Consequently, the interviewees' assessments of state policies might be overly optimistic. One step the authors took to address this issue was to conduct one-on-one interviews with multiple members of the NGOs' leadership teams, particularly for NGOs considered more politically aligned with the state. Due to their varying roles and ranks, interviewees from the same organization often held different views on the relationship between their organization and the government. This internal diversity helps mitigate—though not completely eliminate—the potential "survivor bias" in the interview data.

POLICY BACKGROUND: CHINA'S LAW-BASED GOVERNANCE REFORMS

Many of the policies that have had a profound impact on law-related NGOs are part of the current administration's ambitious plan to establish law-based governance in China. The framework for these reforms was laid out during the fourth plenum of the Chinese Communist Party Central Committee in 2014, the first-ever Party plenum dedicated to the idea of law-based governance. Among other things, the plenum announced plans to: (1) establish "institutionalized venues" for NGOs to promote

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public interest; (2) accelerate legislation in areas such as environmental protection, women and children's rights, and NGO management; (3) expand the scope of legal aid services; and (4) professionalize and strengthen the judiciary (Central Committee of the Chinese Communist Party 2014).

The state fulfilled these pledges through a series of legislative changes. One of the most substantial is the Revision to the Environmental Protection Law (2014), which gives NGOs that meet certain qualifications standing to sue private parties for acts "polluting environment or causing ecological damage in violation of public interest."[3] Several other pieces of major legislation followed in subsequent years, including the Anti-Domestic Violence Law (2015), the Charity Law (2016), the Civil Code (2020), the Revision to the Minor Protection Law (2020), and the Legal Aid Law (2021). In theory, these new laws and amendments give relevant NGOs opportunities to establish or expand their legal operations and to use their expertise in these areas to influence the legislative process.

For these organizations, another critical policy change under the current administration has been the large-scale judicial reforms that began around 2015. For instance, the new case registration system (立案登记制) forbids the courts from rejecting cases before the trial stage, while the judicial personnel reform (员额制改革) forces many without formal legal training from their judicial posts. Empirical studies suggest that though these reforms have failed to achieve many of their stated objectives, they have generally improved the professionalism and autonomy of the judiciary in the vast majority of cases that do not involve ultra-high political or economic stakes (Y. Wang 2019; He 2020). This in turn has created a more legalist judicial landscape that may be more amenable to NGO demands grounded in written laws or judicial interpretations.

LAW-RELATED NGOS UNDER THE NEW POLICIES: AN EMPIRICAL EXAMINATION

This section presents empirical findings on how the recent law reforms have impacted the legal practices of Chinese NGOs. It is organized as follows: The first part discusses how the new policies—particularly the public interest litigation (PIL) system—have affected the scope of the studied NGOs' legal operations. The second describes the influence of the judicial reforms on the NGOs' success in court. The last part describes the secondary impacts of the reforms on law-related NGOs, including how they have affected funding, legislative influence, and media relations.

3. In order to bring such public interest lawsuits, an NGO must: (1) be "legally registered with the civil affairs department of the people's government at or above the level of a districted city"; and (2) have "specifically engaged in environmental protection for the public good for five consecutive years without any recorded violation of law." Environmental Protection Law of PRC, Article 58.

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Expanding Litigation Opportunities

New Standings

The codification of the PIL system has led to notable expansions of some Chinese NGOs' litigation practices. The effect is most apparent in the field of environmental protection, thanks largely to the explicit mention of environmental PIL by NGOs in the amended Environmental Protection Law. Although NGOs started to bring PIL cases as early as 2009, the practice was initially sporadic because courts were unwilling to assume the political risk of allowing an NGO to bring a PIL without explicit legal or political authorization. Indeed, the first environmental PIL was possible only because the plaintiff, All-China Environment Federation, was well connected within the central government, which pressured the local court to accept the case.[4] In the early 2010s, even the largest environmental NGOs typically had only a couple ongoing PIL cases at any given time.[5] One study shows that of the fifty-three environmental PIL cases brought between 1995 and 2013, a mere eight were brought by NGOs (S. Wang 2014).[6]

The passing of the 2014 Revision to the Environmental Protection Law, however, led to an explosive expansion in some NGOs' PIL practices, especially that of larger NGOs that could afford the high court fees and a dedicated legal team.[7] Specifically, Article 58 of the revised law explicitly authorizes qualified NGOs to bring PIL against private parties for eco-environmental damages, significantly lowering the legal and political bar for environmental PIL. This effect has been further strengthened by subsequent litigation. An interviewed employee of the Green Development Foundation reported that since the landmark Tengger Desert case—in which the Supreme People's Court (SPC) refuted a local Ningxia court's rejection of the Green Development Foundation's PIL standing—courts no longer reject the organization's cases for lack of standing.[8]

Table 1 shows the exponential growth of NGO-led environmental PIL—from no more than a couple of cases registered per year before 2015 to an average of more than one hundred after the revision took effect. The difference is particularly prominent for more established organizations. For instance, the Green Development Foundation, which did not have a legal practice before the revision to the Environmental Protection Law, has since successfully registered more than 130 PIL court cases. Similarly, Friends of Nature registered only one PIL case before 2015 but more than forty afterward. In addition, some local NGOs that cannot bring PIL cases themselves—usually for lack of qualifications, funding, or legal expertise—actively participate in the litigation process by assisting the national PIL "powerhouses" with collecting evidence.[9]

4. Interview with NCBCDGF02.
5. Interview with NFON01; interview with NFON02.
6. The rest were brought by procuratorates, local environmental agencies, and individuals.
7. Interview with NDB01.
8. Interview with NCBCDGF02.
9. Interview with NLC01; interview with NGYEP03.

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TABLE 1.
Number of NGO-led PIL After EPL Revision[10]

	2015.1–2016.6	2016.7–2017.6	2017	2018	2019	2020	2021
Registered	93	153	58	65	179	N/A	299
Decided	N/A	85	38	16	58	103	151

Not only has the number of PIL cases surged but NGOs have managed to win a substantial portion of these cases in court, sometimes even prompting nationwide legal or policy changes. A leader of the Green Development Fund estimated that the organization had won around 92 percent of its PIL cases. Similarly, of the twelve Friends of Nature PIL cases with decisions published on the official China Judgement Online database, eleven ultimately gained court support—at least partially—for their main claims.[11] Perhaps more importantly, several of these court wins—including the aforementioned Tengger Desert case—have been included among the SPC's guiding cases (指导性案例) or model cases (典型案例), which have binding or quasi-binding effects on lower courts. One prominent example is the green peafowl case, in which Friends of Nature successfully persuaded the courts to strike down a hydropower station project for threatening the habitat of the endangered green peafowl. The decision soon gained massive publicity as the first "preemptive" biodiversity judgment and was later designated by the SPC as a guiding case, paving the way for similar future decisions.

One caveat of the new PIL system is its limited application beyond environmental protection—at least for the time being. Although the "such as" language in Article 55 of the Civil Procedure Law leaves open the possibility for NGOs to bring PIL in other areas, they have had little success in registering non-environmental cases in court. That being said, the theoretical possibility gives NGOs the opportunity to push for expansion of the PIL system. In 2020, the SPC amended the Provisions on the Cause of Action of Civil Cases by adding two areas of civil PIL not mentioned in the Civil Procedure Law: the protection of heroes and martyrs and the protection of minors (Supreme People's Court of PRC 2020). Interpreting the move as a green light, Beijing Children's Legal Aid and Research Center (BCLARC), an NGO that specializes in minor-related legal disputes, brought a PIL against Tencent, a Chinese multinational technology corporation. BCLARC alleged that the company's flagship mobile game, the *Honor of Kings*, was addictive and contained sexually revealing images and was therefore illegal under the Law on the Protection of Minors (Pei Li 2021). The case was widely reported by both mainstream and social media, many hailing it as the first minor-protection PIL brought by an NGO ("Social Organization Brings Minor-Protection Public Interest

10. The data is based on the annual White Papers on Environment and Resources Adjudication of China, available at http://wej.court.gov.cn/news/more-17.html, https://www.court.gov.cn/zixun-xiangqing-307381.html, and https://www.court.gov.cn/zixun-xiangqing-361291.html.

11. During the interviews, a lawyer from Friends of Nature stated that twenty-five of their cases had already concluded by the end of 2021. However, she refused to give an official report of the winning rate, citing the organization's focus on the social impacts of PIL.

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Litigation Against Tencent Corporation" 2021). A lead lawyer on the case conceded that the court might not recognize its standing, since the Law on the Protection of Minors does not explicitly grant NGOs the right to bring PIL cases.[12] However, he believed it was a risk worth taking because the case might serve as a precedent for NGOs' participation in the field. Even if it failed in court, its publicity would raise awareness of the issue and of minors' legal protection.

The further expansion of NGO-led PIL has also been complicated by the recent introduction of procuratorial PIL. In 2017, the revised administrative and civil procedure laws granted the people's procuratorates the power to bring lawsuits against both private parties and government agencies on various policy matters, including environmental protection and minor protection.[13] Some interviewed NGO leaders voiced concern that procuratorial PIL—with its expansive portfolio and vast resources—would effectively "preempt" expansion of NGO-led PIL, such as administrative lawsuits against local environmental agencies.[14] This view is supported by the fact that procuratorates brought 5,610 environmental PIL cases in 2021 and NGOs only brought 299 (Supreme People's Court of PRC 2022). Others, however, pointed out that the new procedural rules have created opportunities for environmental NGOs to collaborate with procuratorates by sharing expertise, case leads, and evidence.[15] This cooperation is partially driven by the two institutions' different incentive structures, as the risk-averse procuratorates sometimes rely on the more adventurous NGOs to take the lead in high-profile lawsuits that face uncertain prospects in court. The introduction and continued expansion of procuratorial PIL has thus created both potential limits and probable allies for law-related NGOs in China.[16]

Expanding Legal Aid Scope

Some organizations have also benefited from the expansion of state-sponsored legal aid.[17] In 2016, the Beijing municipal government announced that it would expand eligibility for legal aid to plaintiffs in labor contract and housing demolition cases, which are among the most common types of civil disputes, and this policy was later replicated by the Legal Aid Law (An 2016). This required the Beijing Municipal Bureau of Justice to appoint significantly more legal aid counselors for civil cases, providing a new source of business for law-related NGOs, which are often well positioned to take advantage of such opportunities due to their willingness to take less profitable cases and their familiarity with the Bureau of Justice legal aid departments.[18] For instance, according to an interviewed employee of Zhicheng, a Beijing NGO specializing in labor issues, the organization receives over one hundred civil legal aid referrals from the Fengtai District

12. Interview with NBTLAARC01.
13. Citation masked for anonymity.
14. Interview with NCBCDGF02.
15. Interview with NFON03.
16. Citation masked for anonymity.
17. For a discussion on the increase of state legal aid funding, see generally (H. Fu 2020)
18. It should be noted, however, that NGOs only handle a small portion of legal aid cases. Most such cases (both civil and criminal) are assigned to government-affiliated lawyers.

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Bureau of Justice each year.[19] These government-appointed cases have been a welcomed addition to the NGO's litigation portfolio, which previously included almost exclusively walk-in clients.[20]

The state-led legal aid expansion also includes appointed representation in criminal cases. Historically, courts were required to appoint legal counsel only for criminal defendants who were minors, disabled, or faced a life sentence or death penalty (Supreme People's Court of PRC, et al. 2013). In 2017, however, the SPC and the Ministry of Justice jointly launched a pilot Full Defense Lawyer Coverage program in eight provinces as part of the ongoing judicial reforms (Supreme People's Court of PRC and Ministry of Justice of PRC 2017). The program required all courts in these localities to appoint a defense attorney for every criminal defendant without legal representation, except those under summary procedures (in which case free legal opinions would be offered in lieu of representation) (Supreme People's Court of PRC and Ministry of Justice of PRC 2017). This pilot program was later extended nationwide, with 77 percent of China's counties reportedly adopting the measure by early 2020 (H. Zhang 2020). This move vastly expanded criminal legal aid coverage, creating a drastic surge in demand for certified attorneys willing to take criminal cases for reduced pay. As in the case of civil legal aid, some NGOs capitalized on this increased demand by accepting large numbers of referrals from the legal aid departments of the local Bureaus of Justice, which had become responsible for securing criminal legal aid attorneys on behalf of the courts.[21]

Legislation-Driven New Practices

In addition to the establishment of the PIL system, other substantive legislation in recent years has given legal NGOs new areas in which to expand their operations. One example is the 2015 Anti-Domestic Violence Law, which allows courts to issue personal safety protective orders against abusers and extends the definition of domestic violence to include psychological abuse ("Anti-Domestic Violence Law of the People's Republic of China" 2015). An employee of an NGO that specializes in women's legal rights reported "explosive" demands for domestic violence legal services after the law came into effect, causing the organization to shift its legal focus entirely to related areas.[22]

Somewhat ironically, an even better example is the recent series of legislation aimed at strengthening control over NGOs, including the 2016 Charity Law and the infamous 2016 Law on the Administration of Activities of Overseas Non-Governmental Organizations. As the new laws set more stringent requirements in areas such as financing, management structure, labor issues, and activity reporting (Spires 2020), many NGOs—and even the government agencies responsible for supervising them—lack the legal expertise to ensure proper compliance,[23] creating huge demand for legal professionals with both expertise in NGO operations and connections to

19. Interview with NZC01.
20. Interview with NZC01.
21. Interview with NZC01.
22. Interview with NQQ01.
23. Interview with NZZ02.

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relevant agencies, such as the Civil Affairs Bureau. This has prompted the establishment of NGOs specializing in NGO-related legal matters. One example is Zhongzhi, an organization created in 2013 by several public interest lawyers at the invitation of the Ministry of Civil Affairs to help with the rising number of NGO-related legal disputes.[24] The organization's greatest boost, however, came in 2016—the year it considers "the genesis of law-based charity"—when the two newly passed NGO laws brought an unprecedented amount of business.[25] Fearing the consequences of noncompliance and internal disputes under the new laws, foreign and domestic NGOs began to ask Zhongzhi for legal advice and representation. Zhongzhi grew significantly by charging large organizations, such the Gates Foundation and the Alibaba Foundation, while providing free legal services to small NGOs.[26]

A More Legalist Judiciary

Although less significant than the above-mentioned laws and policies that expanded some NGOs' legal opportunities, recent court reforms have also benefited litigation-focused NGOs by creating a more professional and legalist judiciary that is more willing to accommodate their requests. One example is the 2015 case registration system reform, which requires a court to register a complaint that meets certain minimum procedural requirements (Supreme People's Court of PRC 2015). Multiple interviewees confirmed that this system has forced local courts to accept sensitive cases that previously would have been rejected before reaching trial.[27] For example, one NGO lawyer stated that the courts began to accept a significantly larger proportion of cases involving rural women's land rights, cases that courts traditionally shunned due to their culturally controversial nature and tendency to create social instability. However, he noted that some courts still try to suppress such cases in less formal ways, such as by purposefully delaying the trials or refusing to execute their judgments.[28]

Another related aspect of the judicial reforms is the new judicial responsibility system, which helps professionalize the NGOs' trial experiences. This reform has given individual judges significantly greater authority over the cases they handle by reducing court leaders' power to supervise their work. At the same time, the new system holds judges personally responsible for any mistakes they make in deciding cases (Y. Wang 2020a). Coupled with the new "openness" requirements, such as publishing court judgments and video recording trials, the responsibility system has put significant pressure on judges to abide by the formal rules when conducting trials—or risk facing investigations or even disciplinary action. Unsurprisingly, therefore, the interviewed NGO employees reported that judges had become more respectful of their rights as lawyers during the litigation process—unlike in the past, when their arguments were frequently cut short by judges for being "naïve" or "only reflecting the law on the books."[29]

24. Interview with NZZ01.
25. Interview with NZZ02.
26. Interview with NZZ01.
27. Interview with NQQ01.
28. Interview with NQQ01
29. Interview with NLCBJ02; interview with NQQ01; interview with NLGBTRA01.

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Some NGOs have also benefited from the rising professional quality of judges thanks to the judicial personnel reform, which was initiated in 2015. Through a series of new and stringent exams, the reform reduced the number of judges by 61 percent, effectively demoting most without systematic legal training from the rank of judge (Y. Wang 2019). Consistent with this change, the interviewed NGO employees noted that the judges they encountered had become more professional and legalistic, making it easier for them to pitch their ideas to the bench. For example, a public interest lawyer from Sichuan stated,

> The judicial reforms have had major impacts on our practice. The personnel and responsibility reforms have resulted in a younger cohort of judges who have completed formal law school training. This has caused [the courts] to become more professional and more respectful of our rights, which in turn has improved trial turnaround times, our winning rate, and the overall fairness of the justice system.[30]

Similarly, a law school legal clinic faculty member noted,

> The post-judicial reform judges are much more professional .... In the past, judges often disregarded our students' legally sound arguments. Now, the judges and our students converse within a professional discourse. [The judges] appreciate the students' legal reasoning capabilities, which help them improve trial efficiency.[31]

In particular, the recent establishment of environmental tribunals has significantly boosted NGO-brought lawsuits. Since the 2014 founding of the Supreme Court's Environmental and Resources Tribunal, local courts have created their own tribunals dedicated to environmental issues, and by the end of 2021, 649 had been established (Supreme People's Court of PRC 2022). Many regions have also adopted a system of "centralized jurisdiction," through which cases that fall within the jurisdiction of a court without an environmental tribunal are transferred to a higher court with such a tribunal (Supreme People's Court of PRC 2022). Judges in these tribunals have quickly become familiar with environmental cases through their daily work, and many have completed specialized training sessions sponsored by environmental NGOs or academic institutions. Consequently, environmental NGOs praise these new tribunals for their expertise and professionalism and credit them with improving the odds of getting PIL cases registered and with decreasing local protectionism in court decisions.[32]

The judicial reforms were also partially responsible for reducing NGOs' use of nonjudicial tactics in their advocacy work. Scholars have observed that during the Hu Jintao era, cause lawyers and legal NGOs often used protests and news coverage to pressure courts into making decisions favorable to their clients. (H. Fu 2018; Liebman 2013). The judiciary's subsequent shift toward becoming more professional and

30. Interview with NWX01.
31. Interview with NLCBJ02; interview with NLCBJ01.
32. Interview with NCLAPV02.

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amenable to NGOs' legal claims—combined with the rising political risks associated with non-judicial tactics—has reduced the use of such measures during litigation, though some NGOs still occasionally try to pressure judges through the media or other means when they find opposing parties too influential or judges uncooperative.[33]

Secondary Impacts: Funding and Media Relations

Beyond the direct impacts described above, the recent legislative and judicial reforms have indirectly influenced how legal NGOs operate. Most notably, expanded litigation opportunities have brought some law-related NGOs new streams of income, such as court-awarded attorneys' fees and government-issued legal aid fees. The new legal standings also afford these NGOs new opportunities to engage with the media amid an increasingly restrictive landscape. However, NGOs often must substantially adjust their operations to benefit from these changes—something not all organizations are able or willing to do.

Funding Resources

The finances of many foreign-funded NGOs have taken a serious hit since the Overseas NGO Law came into force in 2017. The law requires foreign NGOs operating in China to file reports on their finances, activities, and Chinese partners to the public security apparatus, which restricts these organizations' funding of unregistered or improperly registered Chinese NGOs and funding from politically sensitive international NGOs (Feng 2017). Interviewed employees of Qianqian, a law-related NGO focusing on women's rights, confirmed that the Overseas NGO Law had deprived the organization of all funding from foreign NGOs—such as the Ford Foundation and the Open Society Foundations—since it was officially registered as a law firm rather than an NGO.[34] The only remaining foreign funding sources for Qianqian were small and inconsistent project grants from foreign governments. Given Qianqian's heavy reliance on overseas funds, the new law cut two-thirds of its income, significantly shrinking its legal practice. Such income reduction has become common among NGOs traditionally dependent upon foreign donors—such as those working on LGBT issues—forcing many to look for alternative funding from domestic sources.[35] This switch in funding sources has in turn forced these organizations to cut back on legal advocacy work that the state or their Chinese donors find contentious, such as impact litigation and open letters supporting LGBTQ rights.

On the other hand, NGOs' new legal standing to bring PIL cases has opened new ways for some law-related NGOs to raise funds from domestic sources. In particular, certain high-profile litigation helps NGOs gain publicity and goodwill, resulting in more donations. Several environmental NGOs saw a significant surge in donations through

33. Interview NQQ01; interview NCNCDGF02.
34. Interview with NQQ01.
35. Interview with NLGBTRA01; interview with NDB01; interview with NWLGBTC01.

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public fundraising after the 2014 Revision to the Environmental Protection Law.[36] For example, the head of Friends of Nature, a national NGO specializing in environmental impact litigation, reported the following:

> The expansion of our litigation practice has had profound impact on our financing structure .... It has brought us two new funding sources. One is continuous small donations from the public, a source we learned about from Western NGOs like the Natural Resources Defense Council. We now have four thousand monthly donors, which is huge by Chinese standards. Most of these donors started contributing because of our public interest litigation. The other source is strategic donations from foundations that support our new litigation-based strategy. These two new channels now constitute more than 40% of our total income.[37]

Despite its deliberate avoidance of foreign funding due to political concerns, Friends of Nature doubled its donations by switching to a litigation-based strategy.[38]

In addition to increased donations, NGOs have begun to receive court-awarded legal fees for their PIL practices. Interviewed NGO employees reported that courts have begun ordering defendants that lose a PIL case to pay the plaintiff's attorneys' fees as well as investigation costs, such as testing fees. However, judges generally award such legal fees below the market rate, citing the "public interest nature" of an NGO's work as justification. Individual judges have significant discretion in setting these rates, which can range from one to ten thousand dollars per case. These awards enable NGOs to frequently collaborate with commercial law firms on PIL cases, which significantly enhances the professional quality of NGO-brought cases.[39]

The aforementioned expansion of legal aid opportunities has also brought extra income to some NGOs. For example, interviewees from Zhicheng reported receiving around two hundred additional legal aid referrals (for both civil and criminal cases) annually from the local Bureau of Justice after the expansion.[40] These cases constitute around a third of the organization's annual caseload, which also includes about four hundred cases from walk-in clients. The new cases also receive somewhat better pay. For each trial-stage case referred from a Bureau of Justice, an NGO receives 3,850 RMB (civil) or 3,250 RMB (criminal) from the government. By comparison, NGOs receive only 2,800 RMB from a government-associated legal aid foundation for each case from a walk-in client (all of which are civil).[41] The expansion has thus brought substantial additional income to some NGOs whose practice includes large numbers of legal aid cases.

That being said, not all law-related NGOs have benefited financially from the recent changes. As the reforms open more opportunities for public interest and legal aid litigation, NGOs must become more innovative in fundraising and more

36. Interview with NCBCDGF02; interview with NFON02; interview with NFON01.
37. Interview with NFON02.
38. Interview with NFON01.
39. Interview with NFOG01; interview with NGYEP03.
40. Interview with NZC01.
41. Interview with NZC01.

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competitive in their professional qualities. They otherwise risk losing financial ground. For example, interviewees reported that funding from more conservative donors—like private companies—generally declined after their organizations became more litigation-focused because the uncertainties and risks of lawsuits dissuaded many from donating.[42] This decline led to financial hardship for NGOs that failed to attract new donors—such as through marketing their litigation work to the public.[43] Similarly, there is no guarantee that NGOs specializing in legal aid will receive case referrals from the government. All NGOs interested in the referral program must go through an annual bidding process, during which their professional qualities and performance are compared with those of other bidders. Indeed, some NGO employees reported that they had recently lost bids for legal aid programs due to heightened competition from private law firms drawn to the field by the increased government funding.[44] Such competitive pressure—rather than political restriction—is rapidly becoming a primary factor in the financial decline of some law-related NGOs that were once major players in their fields.[45]

Opportunity to Influence Legislation

The expansion of litigation opportunities has also opened a new channel through which NGOs can influence legislation. NGOs—particularly those newly qualified to bring PIL—generally recognize that bringing litigation benefits their lobbying efforts, as lawsuits help raise their public profile and build name recognition among relevant agencies and members of the People's Congress.[46] These cases also promote public awareness of specific social issues and provide evidence to decision makers.[47] For instance, the Green Development Foundation successfully leveraged its lawsuits against the producer of a toxic school playground to persuade the Ministry of Education to tighten the environmental standards for campus fields.[48]

In particular, the establishment of a formal PIL system has allowed NGOs to adopt more sophisticated litigation strategies that enhance their legislative influence. Scholars point out that "repeat players" in courts not only have a better chance of winning cases but also are more effective at raising awareness of an issue and pushing for policy changes (Epp 1998, 18–19; Galanter 1974). By making it easier for NGOs to bring PIL cases, the new system enables Chinese NGOs to bring multiple cases on the same subject, increasing the odds that one will grab the attention of legislators and the media. For example, Friends of Nature simultaneously brought four to five biodiversity cases in the late 2010s, a tactic it called "not putting all eggs in one basket."[49] Indeed, although all the cases concerned highly endangered species—ranging from Chinese alligators to green peafowls—only the peafowl case attracted significant media attention because the

42. Interview with NACEF01; interview with NFON02.
43. Interview with NACEF01.
44. Interview with NZC01; interview with NWX01.
45. Interview with NWX02.
46. Interview with NBTLAARC01; interview with NQQ01.
47. Interview with NQQ01; interview with NFON02; interview with NCBCDGF02.
48. Interview with NCBCDGF02.
49. Interview with NCBCDGF02.

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birds are adorable. The resulting publicity not only helped the organization win during both trial and appeal but also made the case an influential guiding case published by the SPC.

NGOs' lobbying practices have also benefited from the recent burst of legislation in relevant areas. For instance, an LGBTQ rights advocacy organization recently ramped up its lobbying effort to protect LGBTQ employment rights as the state began deliberating on a potential employment discrimination law.[50] In particular, the current administration's environmental campaign has caused a flurry of related legislative activities, opening opportunities to lobby relevant agencies and legislators. NGOs, which frequently organize conferences and submit their opinions on upcoming laws, are sometimes successful at changing bills—especially when they have strong connections with the relevant agencies or members of the People's Congresses.[51] In addition, as the current administration pushes for more local environmental regulations, provincial and local governments—which have little expertise in the area—sometimes commission NGOs to draft legislation on a specific environmental matter, such as the protection of ancient trees or the quality of drinking water.[52]

Media Exposure

There is little question that political control over NGOs' media exposure has tightened considerably since the new administration took power. In the 2000s, a common tactic among law-related NGOs was using the mass media to force the government—and sometimes the courts—to make concessions in legal disputes (H. Fu and Cullen 2008, 119; Jia 2016, 623). To maximize effect, it was often used in conjunction with mass mobilization tactics, such as organized protests outside courthouses (H. Fu 2018, 562–63; Liebman 2013). However, the new administration has asserted much tighter control over the media landscape, thereby undermining this strategy (H. Fu 2018, 565–66). Indeed, some interviewees confirmed that the media they now deal with are more restrained than a decade ago.[53] For instance, the decline of market-oriented media, such as the famously liberal *Southern Daily*, has deprived NGOs of a powerful ally on certain politically sensitive matters.[54]

On the other hand, the expansion of some NGOs' litigation practices has afforded them more opportunities to gain media exposure in a politically safe fashion. The authorization to bring PIL cases provides substantial political cover for both NGOs and the media covering their activities. As discussed earlier, Zhicheng, which recently brought a PIL against the mega internet corporation Tencent, is switching to an impact-litigation model. According to a member of the organization, even if such cases end up losing in court, the media attention they generate can create public pressure for defendants to alter their behaviors and can lead to policy changes.[55] The Tencent case indeed

50. Interview with NLGBTRA01.
51. Interview with NDB01, interview with NLC01.
52. Interview with NGYEP03.
53. Interview with NCBCDGF02; interview with NFON01, interview with NWLGBTC01.
54. Interview with NFON02.
55. Interview with NZC02.

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generated massive numbers of new reports and discussions from both traditional and social media—the hashtag #NGOBringsPILAgainstTencent generated more than ten million views on the social media platform Weibo in just one month ("#NGOBringsPILAginstTencent" 2021)—which Zhicheng credited to the "attention-grabbing effect" of PIL cases.[56] Zhicheng also plans to bring PIL cases on other hot-button issues, such as overwork in high-tech companies and price monopoly in platform economies, which it hopes will attract more media attention and facilitate public awareness of contemporary labor rights issues.[57]

This effect has been especially apparent for environmental NGOs, which have always valued media exposure of their legal work because public attention often pressures courts to rule in favor of environmental protection.[58] The Civil Procedure Law and the Environmental Protection Law's explicit authorization, coupled with the current administration's repeated emphasis on the environment, has emboldened NGOs' collaboration with the media on environmental PIL cases. In general, interviewees from environmental NGOs expressed the relative ease with which they formed mutually beneficial relationships with news media during PIL cases, citing the media's need to attract public attention through high-profile litigation.[59] They also noted the less sensitive nature of environmental PIL cases and the central government's support of environmental issues as key reasons they could maintain or expand their media exposure amid "a less favorable media environment more generally."[60] For example, an interviewee from the Green Development Foundation said,

> Media attention is often very helpful for winning litigation .... The media is always after hot topics, and environmental issues are always hot topics. After we gained legal authorization [for PIL], the media's attention turned to more practical legal matters, rather than morality and justice .... As a result, the media's reports on environmental issues are less politically sensitive and thus less conservative compared to other areas.[61]

However, as in the case of funding sources, not all NGOs have successfully capitalized on media attention. Organizations that expend less effort building traditional media relations or are less familiar with social media have lost significant publicity to more media-savvy organizations in recent years.[62]

DISCUSSION AND CONCLUSION

The current research presents a picture of China selectively improving the legal opportunity for various types of law-related NGOs. This has been achieved mostly

56. Interview with NZC03.
57. Interview with NZC02.
58. Interview with NCLAPV02.
59. Interview with NFON01; interview with NCBCDGF02; interview with NFON02; interview with NCLAPV02.
60. Interview with NFON01; interview with NCLAPV02.
61. Interview with NCBCDGF02.
62. Interview with NACEF01; interview with NWX01.

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through a recent series of legal reforms under the umbrella of law-based governance, a central element of the current administration's agenda. Chief among these reforms is the new PIL standing bestowed by the 2014 Revision to the Environmental Protection Law, which enables large environmental NGOs to significantly expand their litigation practices. Other substantive legislation—such as the Anti-Domestic Violence Law and the Charity Law—also grant relevant NGOs opportunities to establish or grow their legal operations. Additionally, NGOs engaged in legal aid can now benefit from the new Legal Aid Law and the government's increased investment in their work.

These NGOs also generally find the judiciary more amenable to their demands, due largely to the recent judicial reforms. For instance, the case registration system has substantially decreased the chance that courts will reject NGOs' cases during the pre-trial stage. The interviewed NGO lawyers also reported increasingly encountering judges who are more professional and respectful of their trial rights, thanks to the judicial personnel and responsibility reforms. In particular, those from environmental NGOs credited their vastly improved trial experiences to the many newly established environmental tribunals consisting of sympathetic judges well trained in the field of environmental law.

In addition, the legal reforms have helped some law-related NGOs improve their finances, legislative influence, and media relations. These reform measures—including the new PIL standing and legal aid policies—have brought new sources of funding to law-related NGOs in the form of donations and government- or court-issued legal fees. The improved legal opportunity also allows NGOs to participate more effectively in the legislative process through the strategic use of impact litigation. Similarly, the expansion of NGOs' litigation practices affords them a politically safe channel for gaining media exposure—and thus social influence—despite increasing censorship.

On the other hand, the same reforms considerably curtailed the legal practice of several interviewed organizations. The most salient example is the Overseas NGO Law, which had significant financial impact on NGOs that traditionally relied heavily on foreign donors, such as the Qianqian Law Firm and LGBTQ rights organizations. Drastic decreases in income or sudden switches to domestic funding forced these NGOs to curb some of their legal activities, especially those considered socially controversial or politically sensitive by the state or their Chinese donors. However, not all such declines were caused by the state's intentional constraints. Some NGOs, including those working in relatively "safe" areas like environmental protection, simply failed to adjust their operations to the new policy environment—such as by using the expanded litigation opportunities to attract new donors or gain social media influence—causing them to lose ground to other organizations in the increasingly competitive field.

Overall, the organizations included in this study demonstrated a strong inclination—though not always the capability—to adapt their legal practices to the new policy context. Most interviewees expressed profound willingness to participate in the new dynamic through litigation and legislative advocacy—even if it meant heavier dependence on government resources and closer alignment with the state's objectives. The clearest example is probably the dramatic expansion of Zhongzhi's NGO-related legal practice, which resulted directly from the enactment of the Charity Law and the Overseas NGO Law. In a way, this organization has been capitalizing on what many view as China's legal constraints over civil society by actively

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participating in tightening regulation over other NGOs. The leader of an LGBTQ rights advocacy group nicely summarized the mentality of many legal NGOs still in operation:

> In the past, we mostly learned from the West .... We tried to put pressure on the government, such as by conducting interviews with domestic and foreign media and publishing open letters .... We now realize that these strategies will not work ... What we mostly do now is combine our litigation work with lobbying the experts who advise the People's Congress on new legislation .... As an NGO operating in China, we must understand how policy-making works here and go through a localization process instead of just copying the idealized foreign models.[63]

It should also be noted, however, that the relationship between the state and law-related NGOs is not a one-sided affair, as the intermingling of the two also helps shape the government's responses to certain social issues—though often in a less straightforward fashion. By aligning with the state, some NGOs have gained not only enhanced access to the court system but also more informal influence over the legislative and policy processes. For instance, several established environmental NGOs—especially the government-adjacent All-China Environment Federation—have leveraged their influence with national legislators and the Ministry of Ecology and Environment to successfully lobby for favorable bills and policies, including Article 58 of the Environmental Protection Law, which gives them standing to bring PIL. Similarly, Zhicheng frequently used its close relations with the Ministry of Civil Affairs to push for legal and institutional reforms that offer better protection for minors and migrant workers (such as the creation of the Bureau of Minor Protection). These processes are generally less transparent than NGO tactics like mass mobilization, media campaigns, and PIL and thus have relatively low visibility in academic discourse. However, they have had tangible impacts broadly consistent with the NGOs' stated objectives in certain policy fields. At the same time, such inputs from societal actors have contributed to increasing state responsiveness and efficacy, which along with neutralizing potential opposition, is an important goal of the regime's cooptation strategy.

These findings confirm that an authoritarian regime can effectively increase NGOs' legal opportunity under a dualist model while simultaneously reshaping civil society in its own image. It has been shown that the combination of a professional judiciary and a vibrant civil society can bring major trouble, if not existential threats, to autocratic rule (Moustafa 2003). Although many regimes have tried to avoid this outcome through wholesale suppression of cause lawyering, China has opted to combine systematic containment with selective opening of the legal system to the remaining politically "safe" organizations. This dualist approach allows the state to enlist NGOs to invigorate the legal system and help implementing central policies with minimal political risk. It also helps the state co-opt these societal actors by incorporating them into a state-sanctioned and institutionalized process. The empirical findings show that some remaining law-related NGOs have benefited from the new legislation and

63. Interview with NLGBTRA01.

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policies intended to enhance their legal opportunities. Their active participation in this new institutional environment has in turn helped to align their interests with the state's and embed them more deeply within the governing structure.

These findings also shed light on the political conditions needed to establish and maintain a dualist legal system. Instead of adopting a dualist approach like China's, many other authoritarian countries have opted for wholesale suppression of cause lawyering, despite their shared tendency to "turn toward law" in recent decades (Ginsburg and Moustafa 2008; T. Zhang and Ginsburg 2019). For instance, the Putin regime—which famously promised to create a "dictatorship of law"—recently launched a comprehensive assault on law-related NGOs, including those working in less overtly political fields, such as environmental protection (Solomon 2005, 4; Flikke 2016; van der Vet 2018; Plantan 2018). Plantan notes that while both the Russian and Chinese governments have used coercive measures against NGOs, the Putin regime seems much less interested in allowing these organizations to channel their demands through the legal system (Plantan 2018). One possible explanation for this difference is that China is more effective than Russia at minimizing the political risks associated with NGO legal advocacy: despite seemingly brutal crackdowns, Russian cause lawyers from various organizations continue to challenge the Putin administration head-on through the judicial system (van der Vet 2021, 2018; Plantan 2018). In addition, these lawyers generally maintain close collaborations with NGOs that share their political objectives, combining their domestic legal work with international advocacy, mass mobilization, and media campaigns (van der Vet 2018; van der Vet and Lyytikäinen 2015). China, on the other hand, has been more effective at hindering court-based resistance it deems threatening to stability or national security, especially in the past several years. A recent empirical study estimates that in the aftermath of the 709 Incident, the scale of rights advocacy against different forms of state actions "has shrunk by at least two-thirds in terms of its network, activism, influence, and the number of activists" (Zhu and Lu 2022).

This raises another question: given that both states have applied similar coercive measures, why has China been more successful at minimizing the political risks posed by law-related NGOs? The answer likely lies in the relative closeness of China's political system. Despite Russia's authoritarian turn in recent decades, civil society actors—including cause lawyers—have retained greater political space to openly defy the state thanks to the country's outwardly democratic constitutional system, which helps them resist amid intensifying ad hoc crackdowns. China, on the other hand, is less constrained by such constitutional formalities, including freedom of speech and association, allowing the government to limit the influence of legal NGOs effectively and preemptively. For instance, the party-state asserts much tighter control over internet speech and other forms of new media, crucial channels through which rights lawyers influence public opinion and boost their chances in court (H. Fu 2018; Moustafa 2003). Likewise, China possesses greater capacity to subdue other societal actors it deems politically threatening, thus severing critical alliances between legal NGOs and these organizations (H. Fu 2018; S. Wilson 2017). These contrasts have become especially clear following the power consolidation under the current administration, which largely ended the "fragmented authoritarianism" that had allowed many advocacy groups to thrive by catering to diverse local policies (D. Fu and Distelhorst 2018; Yuen 2015).

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The findings thus add to the growing evidence that not all authoritarian states are created equal in terms of institutionalizing a dualist legal system. Generally, states with greater control over their own bureaucracies and societies demonstrate superior capacity to maintain an equilibrium between protecting their political stability and empowering the law (Moustafa 2007; Rajah 2012). For instance, Wang argues that Russia's relative failure to make its judges more autonomous is due to the country's many constitutionally mandated legislative and executive elections, which force the Putin regime to acquiesce to local elites' court interference in exchange for assistance in securing votes for United Russia and Putin himself (Y. Wang 2020c). Along similar lines, the current study contributes to the literature on authoritarian legality by demonstrating how a regime's tighter control over society can ironically increase its capability to incorporate NGOs into the legal complex.

Despite such comparative advantage, however, China faces serious challenges in its pursuance of a dualist legal system. One major obstacle is the country's size and diversity. Unlike Singapore—another notably dualist state—the quality of China's legal professionals and institutions varies wildly across regions. The contrast is particularly stark between urban and rural areas and becomes even more so when considering the vast ethnic minority regions (Ng and He 2017; W. Zhang 2022). This inevitably hinders the creation and expansion of a normative state that operates based on law. For instance, Zhang notes that the recent effort to professionalize the Tibetan judiciary was bogged down by judges' poor legal training and the courts' traditional role in maintaining social and political stability (W. Zhang 2022). China's size and diversity, therefore, will likely make progression of the dualist model geographically uneven, with underdeveloped regions experiencing higher levels of judicial arbitrariness and wholesale containment over legal mobilization. Indeed, interviewees from multiple NGOs mentioned that they had greater difficulty dealing with judicial organs in the inland western and northeastern provinces, as these entities are more likely to delay or reject the organizations' cases despite clear legal rules to the contrary.[64] That being said, as the SPC's overruling of the Ningxia court in the Tengger Desert case illustrates, some of these gaps have been gradually closing due to the recent reforms.

Another major drawback of China's dualist approach to legal opportunity is its volatility, which is in tension with the broader goal of institutionalizing legality. One dimension of this volatility is the constantly moving political redlines for law-related NGOs. Authoritarian regimes are known for their ever-changing standards for identifying politically unacceptable behavior by social groups (Stern and O'Brien 2012; van der Vet 2018), which can discourage NGOs from using the law to pursue their objectives—especially NGOs working on politically sensitive matters, such as LGBTQ rights and the Me Too movement.[65] Such an effect can hinder the state's goal of nurturing a sophisticated and professional legal community that can help strengthen its law-based governance over an increasingly complex society.

The other and probably more fundamental dimension of the dualist approach's volatility is the under-institutionalization of authoritarian elite politics. Like its stance on many other matters, China's approaches to both law and NGOs are heavily shaped

64. Interview with NCBCDGF02; interview with NFON02.
65. Interview with NLGBTRA01; interview with NWLGBTC01; interview with NQQ01.

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by the political preferences and power dynamics of the party's top leadership. Scholars have noted that compared to its predecessor, the current administration has been significantly more legalist on juridical matters while taking a harder stance toward politically sensitive social groups (He 2020; D. Fu and Distelhorst 2018; Y. Wang 2020b). As discussed in this study, both these changes are important factors underlying the party-state's recent dualist strategy for addressing legal opportunity. However, there is no guarantee that future administrations will share these policy preferences—or have the political capability to enforce them. Consequently, it remains an open question whether—or to what extent—the current expansion of legal opportunity for certain societal actors will become institutionalized, allowing it to outlive the unique political context responsible for its creation.

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