

*From Local to Upper Capture: The Chinese Experiment of Administrative Courts**

Chao Ma, Chao-Yo Cheng, and Haibo He

Abstract

For decades, it has remained difficult for Chinese citizens to challenge government decisions through administrative litigation, as local governments control the crucial fiscal and personnel resources of the courts. In 2014, the Supreme People's Court (SPC) announced the decision to allow the newly integrated railway transport courts (RTCs) to accept and hear administrative cases. Unlike the local people's courts (LPCs), the RTCs are under the direct administration of the provincial high courts. Drawing on a unique dataset of more than 238,000 first-instance judgment records between 2015 and 2019, we study whether the RTCs' incorporation into the adjudication of administrative cases has improved Chinese citizens' chances of winning their cases. Our multivariate regression analysis shows that only at the primary level are the

Chao Ma is Assistant Professor in the School of Law, the University of International Business and Economics.

Chao-Yo Cheng is Postdoctoral Fellow in the School of Social Sciences, Tsinghua University.

Haibo He is Professor of Constitutional and Administrative Law in the School of Law, Tsinghua University. Correspondence should be addressed to hehaibo@tsinghua.edu.cn.

* This research was supported by the National Social Science Fund of China (17BFX174) and Humanities & Social Science Fund of China's Ministry of Education (21YJC820029). We thank Hongquan He, Yuan He, Shu Wang, and Peng Xu for their research assistance. We are also grateful to the anonymous reviewers for their insightful and constructive comments.

RTCs more likely than the LPCs to side with citizens. Moreover, the primary RTCs' pro-plaintiff effect becomes statistically insignificant when the cases concerned are filed against government agencies from higher administrative levels. We also find suggestive evidence indicating provincial governments' implicit influence over the RTCs. Overall, China's experiment of administrative courts has achieved partial success. The RTCs' leverage to evade the capture by local government agencies may remain constrained given their embeddedness in the current Chinese political system.

The history of China has seen numerous central rulers grappling with the challenge of exercising effective authority over a vast territory. For centuries, the rulers employed complex delegation systems comprising myriad multilevel local agents.¹ Still, it has often been difficult for them to stay informed and effectively monitor the actions of their local agents while imposing credible sanctions on those who are incompetent or abrogate their responsibilities. Since its introduction in 1989, administrative litigation has offered Chinese citizens a legal instrument to defend their rights against wrongful administrative actions.² In this vein, it also serves as a "fire-alarm" mechanism that allows the Communist Party of China (CPC or "the Party" hereafter) to discipline local government officials through the citizenry.³

In practice, however, administrative litigation has been characterized by various difficulties in "filing, hearing, and adjudicating."⁴ As local governments have a crucial say in the personnel and budgetary matters of the local people's courts (LPCs), those courts are subject to a variety of formal and extrajudicial influences from their respective municipal (prefecture-level municipalities) (地級市 *dijishi*) and county (縣 *xian*) governments.⁵ As a result, the LPCs, treated by local officials as their subordinates, are often unwilling to accept and hear administrative cases. Because the courts are likely to be incapable of providing them with a satisfactory remedy, many Chinese citizens hold a relatively low level of trust in the courts and have usually chosen to voice their discontent through petitions (信訪 *xinfang*) rather than litigation.⁶

The Party Center's most recent turnover in 2012 acted as a crucial watershed for administrative litigation in China. In 2013, the new Party leadership pledged to "deepen the reform" and "accelerate the construction of a just, efficient, and authoritative socialist judicial system."⁷ The Party Center's determination prompted several critical changes in the