

REMEMBERING THE FACES OF LAW:
COLLECTIVE MEMORIES AND LEGAL CONSCIOUSNESS IN TRANSITIONAL
CHINA

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Dedication

This dissertation is dedicated to my folks whose life and wisdom inspired my search for stories of ordinary people.

Abstract

Using a social survey of 556 individuals, my dissertation examines how Chinese urban residents remember the past and how they think of and act toward current laws. By linking Chinese people's different understandings of law with larger cultural themes, this project provides socio-legal scholars with the theoretical tool to articulate the complex cultural environments in which people experience, think about, and act toward law. In addition, the findings also suggest that it is fruitful to deconstruct the concept of law based on the social relations it seeks to regulate. Finally, my dissertation further expands collective memory research by revising theories on cohort formation and connecting memories of the past to attitudes toward present laws.

In my first empirical chapter, I treat collective memories of the past as a core component of culture, situating the study of law in specific historical and cultural context. My survey results show that memories most influential in shaping people's understanding of law and the state are those that resonate with nationalist sentiments. This applies especially to memories of resistance against foreign invaders. Memories of these events contribute to people's support for laws that strengthen centralized state power.

The next two chapters examine how people's perception of law's legitimacy is associated with their tendency to obey the law and mobilize it for dispute resolution. My research reveals that Chinese people's ideas of and potential behaviors toward law vary across different social relations. Specifically, family laws are considered to be much more legitimate than laws that regulate state-citizen relations or economic transactions. This difference in the perceptions of law translates into varying tendencies to report compliance or mobilization of the different types of laws. While the perception of law's legitimacy is positively associated with tendencies to obey and use the law, this is true to a much greater degree for family laws than for other types of law. Interestingly, people report that they are least likely to litigate for conflict within the family, despite the high level of legitimacy they attribute to laws in this social sphere. These chapters also report on how legal ideas and potential behaviors vary across respondents.

These findings have implications for policy makers and activists who seek to change the legal system in China. On the one hand, reformers could repurpose these existing cultural themes to promote the legitimacy of their causes. On the other hand, the authoritarian state of China very shrewdly co-opted these discursive resources as well. The Chinese government has invested considerable resources in establishing its image as a rising super power and thus taps into the increasing national pride among Chinese citizens. To counter such nationalistic narratives could thus be the mission of activists and social reformers.

Methodologically, my dissertation borrows from the culturalist tradition in collective memories study. Bearing in mind the pitfalls of oversimplification, I designed my survey to cover a wide range of cultural discourses. This has provided new insights into the larger context of contemporary China, context that has been either unduly neglected or misunderstood in previous research.

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Chapter I: Introduction

In 2008 and 2009, the story of Kui Gu made its way into a number of national and local media in China (Beijing Youth 2009, Xinhuanet 2009, Ifeng.com 2008). A former successful entrepreneur, Mr. Gu threatened violence against local government officials who allegedly authorized the demolition of a newly opened mall financed by Gu for lack of a construction permit. In response to Gu's "radical behaviors," the local government invited him to sue itself and offered to pay for Gu's legal fees. The unusual strategy of the government (i.e., an invitation for a lawsuit against itself) was referred to in the title of each newspaper article on the case. Both journalists and scholars discussed at length and with optimism the implications of such new phenomenon for legal reform and "rule of law" in China. Very shortly after this heated discussion, when I conducted a pilot study for my dissertation research in the summer of 2009, I interviewed a retired judge who had a similar dispute with the government over demolished real estate. He explained his decision not to go to court, saying "the law will always work in favor of the government". These stories illustrates how law assumes considerable significance in the social life of contemporary China while revealing its complicated, sometimes even self-contradictory, implications for the relationship between the state and its citizens. More importantly, they raise question regarding the changing relationship between Chinese citizens and the law. The profound legal reforms in China have indeed attracted the attention of Chinese and international scholars alike, leading to volumes

of scholarship on China's changing legal institutions and emerging legal profession. However, in an era when "law matters more than ever" in China, little research has been conducted to systematically examine what ordinary Chinese people think of and do with the law in their everyday life.

My dissertation thus seeks to understand the environment and consequences of changing laws in China through the eyes of ordinary Chinese people. I build this project on the traditions of legal consciousness and collective memory studies. By exploring the relationship between the private life of citizens and the law as a public arena, research on legal consciousness illuminates the power of law in sustaining, constraining and transforming the relationship between the state and individuals (Merry 1990, McCann 1994). As "legal culture" constitutes the basis for most analyses of legal consciousness, this procedure simultaneously opens up space for incorporating cultural specificities of different societies. As we use that space, however, we have to guard against the risk of treating legal culture as a given instead of an on-going process. Too much "legal culture" work indeed assumes homogeneity of national (legal) cultures while ignoring possible variation and subcultures (Saguy and Stuart 2008). Another drawback of socio-legal studies in general and of legal consciousness research in particular is that almost all studies have been conducted in Western countries. The operation of legal consciousness in other cultural contexts is underexplored. In addition to a lack of empirical data on less-studied societies, this gap also leads to a narrow conceptualization of law and legality that is tightly

connected to liberal constitutionalism and centers around individuality, rationality, and formal processes. As a result, many scholars have argued that societies like China lack the cultural and political soil for the growth of a modern legal system or rule of law (e.g. Lubman 1999). While I am not arguing against critiques of the profound problems within China's current political and legal systems, in this dissertation, I am not trying to engage with the debate regarding what specific type of legal system China should and could have. Instead, I define law in its broadest sense as the set of rules that prescribe appropriate behaviors and are enforced by state-sponsored violence, regardless of the moral foundations of such rules. Legality thus refers to a wide range of institutions, discourses, and practices that define and sustain these rules. Based on this broad conceptualization of law, I intentionally avoid using such phrases as "rule of law" as they tend to be associated with legal systems and cultures arising from (Western) advanced capitalism. However, this is not to say that the findings of this research do not provide any insights into China's legal reform. On the contrary, it informs potential policy makers and/or activists of cultural factors that may facilitate certain social changes while hindering others. In the conclusion of this dissertation, I discuss these implications in more detail. Finally, even though legal consciousness literature takes seriously the multifaceted and inconsistent nature of legality, there is little discussion on how individuals view and behave differently when legality intersects with other social institutions such as the economy, family or politics. My dissertation fills these gaps by linking legal consciousness with collective

memory research and by situating my research in a cultural setting that is novel to the study of legal consciousness—a Chinese city.

My dissertation research examines the patterns of legal ideas, compliance, and mobilization among ordinary Chinese people to determine whether and how these patterns are associated with their memories of different periods in Chinese history. My survey results show that those memories that are most influential in shaping people's understanding of law and the state particularly affect the formation of a national identity. This applies especially to memories of resistance against foreign invaders. My research also reveals that Chinese people's reasons for complying with and mobilizing the law vary across different types of law. By linking Chinese people's different understandings of law with larger cultural themes and by tracing these themes to how Chinese people construct the history of the country, this project enriches research on both legal consciousness and collective memory. On the one hand, the concept of collective memory helps trace the cultural origins of legal ideas. On the other hand, by linking memories to legal consciousness, I add to the emerging field of quantitative studies on the connection between memories and ideas and attitudes surrounding present social institutions (Griffin and Bollen 2009). In addition, I introduce a relational understanding of law, which deconstructs the concept of law and legality by the social relations regulated by different legal provisions. In so doing, I not only demonstrate the complexity of legal consciousness but also measure its variation across social spheres and groups systematically.

The Value of a Cultural Approach to Law in Transitional Societies

Recent decades have witnessed a “cultural turn” in socio-legal studies. In response to the growing pessimism about law’s (in)ability to bring about progressive social change and social justice, some scholars have urged sociologists with an interest in law to move beyond the study of its effectiveness or prescribed functions to its real-world effects (Hunt 1985), to be more attentive to “the culturally productive role of law,” and to engage in the study of “discourse, narrativity, and language along with legal culture, legal ideology and legal consciousness” (Merry 1995: 14). Such a cultural approach sees law as a system of meaning that “affects us primarily through communication of symbols—by providing threats, promises, models, persuasion, legitimacy, stigma and so on” (Galanter 1983: 127). This does not mean treating law only as a set of abstract concepts that inform the values and preferences of legal actors and set goals for their actions. Rather, this constitutive perspective views law and legal discourses more fundamentally as instruments drawn from a “cultural tool kit” (Swidler 1986), deployed by citizens to negotiate and interpret their everyday lived experiences and social relations (McCann 1994). Cultural discourses around the law and legal institutions thus shape what people view as real and they affect their courses of action inside and outside formal legal arenas.

Such a cultural approach is of special value for understanding social institutions in transitional societies. Any institution transplanted from one social environment to another must be reinterpreted and reshaped, if it is to be accepted into

the receiving society. Studies on different social institutions in various transitional societies have revealed the failure of most “off-the-shelf” recipes from the Western world for social reforms. This has led some scholars to emphasize the *sui generis* nature of transition and the importance of the local environment (Kurkchian 2009). Therefore, an approach that takes into account the unique cultures within transitional societies contributes to a deeper understanding of how the law functions or fails to function. More importantly, social transformation is usually accompanied by a sense of cultural disorientation (Sztompka 2004). When new institutions collide with old values, people have to make sense of the new in the context of the old. A cultural approach is especially valuable under such circumstance as it takes the meaning-making process in people’s daily life as its central analytical object and projects from such process the connection between human beings and their social environment (Geertz 1973). Finally, in most transitional societies, law assumes the responsibilities of reconciling the past with the present and the future (Czarnota et. al 2005). This suggests that we should take into account the unique history of each country when understanding the operation of the legal system or the transformation of legal culture.

Engaging Law in Transitional China

This dissertation is written against the background of rapid and profound social change in China. China’s move away from a planned economy and recovery from political upheavals such as the Cultural Revolution mark it as a transitional society where such fundamental social institutions as law are in constant flux (e.g.

Nathan 1997, Logan 2008)¹. With more than four thousand years of written history, China may be the transitional society with the most complicated past (Fan 1994), According to official historiography, throughout Chinese history, there are at least three major historical periods that produced distinct cultural schemas: the history of Imperial China, reaching from ancient times, as early as 1200 BCE into the early 19th century (Imperial Era), the recent era of the Chinese republic, beginning with the first Opium war in 1840 and lasting through the entire life-span of the first Republican (Republic of China) regime in China, and the contemporary history (Communist Era) which began in 1949 when the Communist Party took over and established the People's Republic of China (PRC).² In today's China, contradictory cultural and political legacies from previous historical eras continue to shape the legal landscapes and law-related behaviors of ordinary Chinese people (Michelson 2007; Minzner 2011; Landry 2011).³ Therefore, any sociological study that takes Chinese culture

1 "Transitional society" is defined here as a society undergoing fundamental structural changes that may (re)shape the basic social relationships, including but not limited to regime change, large-scale social reform and political or social instability. In sociological literature, most scholars see China as a transitional society.

2 This categorization is based on mainland China's official historiography. There are many nuances within and between these historical periods, particularly within the "ancient China" history that lasted for thousands of years. The starting and ending dates of different historical eras are also subject to debate. This paper is not attempting to (re)construct an "authentic" timeline of Chinese history but instead to demonstrate how the social process of historical construction is consequential for individual memories of the past and how the link varies across social groups.

3 Chapter II provides more detailed description of each historical era, its potential cultural legacy, and its implication for legal development in present China.

seriously must take into account the implication of its history for current actors as well as the implication of current actors for the (re)construction of history through legal categorization. Meanwhile, until now, the focal point of studies on Chinese laws has been legislation, legal institutions and legal professionals. The everyday lived experience of fundamental legal changes among Chinese citizens has hardly been properly investigated. The very few exceptions that look at Chinese people's encounters with the law hint at the complex relationship they have toward the law (Gallagher 2006). They further indicate that people's strategies and experiences are shaped by their collective memories about the past (Michelson 2007b). In short, a legal consciousness approach that takes the notion of collective memory seriously provides a particularly promising entry into this field of study.

My dissertation thus approaches law in China through a cultural perspective that values the lived experience of ordinary people and takes into consideration the meaning of China's rich history to its current residents. The literature on legal consciousness combined with the collective memory research tradition provides the theoretical frame for constructing such an approach.

Legal Consciousness

The central argument of legal consciousness literature is that legality is constituted through actions and practices of ordinary people (Ewick and Silbey 1998) in addition to its institutional manifestations "in the laws, legal profession, forms, acts, processes, etc." (Silbey 2005: 347). As part of the cultural movement in socio-

legal study, legal consciousness scholarship takes the Gramscian (1971) conceptualization of “hegemony” seriously. On the one hand, law contributes to the crafting of normative and ideological consensus that constrains consciousness. On the other hand, the evolution of law is a function not of the evolution of some abstract impartial logic of justice but of the very social relations and actions it regulates.⁴ The hegemonic power of law is not to dictate policy but to shape discourses, cultural meaning and social identities (Engel and Munger 2003, Sohoni 2007). The efficacy of law lies in its taken-for-granted-ness, in what it provides people to think *with* rather than what it makes people think (Swidler 1986, Sarat and Kearns 1993).

Integrating Bourdieu's (1986) argument about the symbolic power of law with Foucault's (1982) de-centered formulation of power, scholars of legal consciousness see law as a cultural system constituted through the actions and practices of ordinary people (Merry 1990; Sarat and Kearns 1993; Ewick and Silbey 1998). While it also recognizes the power of written statutes and court rulings, this strand of research distinguishes itself from previous socio-legal studies by emphasizing ordinary people as active enactors of the law instead of passive objects. Individual participation in legality as a cultural system is of primary concern for this body of literature. The core

4 Within this theoretical framework, the debate over whether it is possible to build law or rule of law based on Chinese culture becomes less relevant as law itself arises from and forms an integral part of culture. The relevant question thus becomes, “what kind of law is possible/more likely/more powerful in contemporary China,” which is the core question of this dissertation. The answer, I argue, depends on what kind of cultural discourses prevail in the minds of Chinese people.

question for legal consciousness literature is thus three-fold: 1) in what sense is law “cultural” or discursive; 2) how does law set boundaries for individual thoughts and actions (in addition to coercive force); and 3) how is law open to redefinition and (re)interpretation under specific circumstances?

The majority of legal consciousness studies revolve around the second and third of the three questions and take the first one as a given. While a cultural approach toward law forms the basis of most analyses in these studies, the concept of “legal culture” is seldom explicitly defined or systematically examined. Many studies make fundamental assumptions about how law operates. Some point at a contractual relationship between the state and its citizens through law (Merry 1990), others at rights-consciousness as the basis for legal mobilization (Morrill et al. 2010). Yet such assumptions may not hold in societies that do not share enlightenment traditions. This limit is crucial to the field of legal consciousness and cultural legal studies in general as it questions one of the underlying assumptions of the literature—the cultural specificity of the law. Similarly, most legal consciousness studies do not take into account the historical specificity of legal culture and legal consciousness which, as previously argued, is crucial to the understanding of the law in transition.

My dissertation incorporates the concept of legal culture as an analytical target instead of leaving it in a black box as an implied prerequisite. To do this in the context of a transitional society, I operationalize “cultural process” by linking current actors

to the past and introducing another significant body of literature with a cultural approach toward its subject: the literature on collective memory.

Collective Memory

Inspired by Durkheim's seminal work (1965) on the social foundation of knowledge, Halbwachs (1992) formulates the term "collective memory" to refer to visions of the past that are not only commonly "known" but also collectively acknowledged and reinforced by members of a collectivity. The concept is usually associated with the current identities and interests of the enactors of such past. As Hobsbawm (1972) writes, "[t]o be a member of any human community is to situate oneself with regard to one's (its) past, if only by rejecting it." In addition, "[c]ommunities... in an important sense are constituted by their past and for this reason we can speak of real community as a 'community of memory,' one that does not forget its past. In order not to forget that past, a community is involved in retelling its story, its constitutive narrative (Bellah et. al 1985: 153). At the same time, each time the story is retold, a piece from the present is added by the storyteller and different pasts may be envisioned for the same community or society. Such tools of (re)constructing history are particularly important for collectivities facing changes at scales and speeds that challenge their very core values. Collective memory thus constitutes an optimal theoretical tool in understanding the fluid identities of communities and individuals in societies experiencing fundamental transformations.

There has been a long-standing debate over what memories are truly “collective”. Some maintain that only materialized objects independent of human consciousness such as monuments, rituals and written texts can be the vehicle of collective memory (Nora and Kritzman 1996, see also Terdiman 1993). However, since the late 1990s and early 2000s, scholars have argued for bringing individuals back to the study of collective memory (Wertsch and Roediger 2008). As noted by Halbwachs, despite his emphasis on the social nature of collective memory (or any kind of memory), the carriers of collective memories are still *individuals* as members of social groups. A more comprehensive approach thus sees collective memories as “meaning-making” cultural reservoirs (B. Schwartz 1996) from which everyday folk draw resources and to which they contribute (B. Schwartz and Schuman 2005).

We thus see that the two bodies of literature, that on legal consciousness and that on collective memory, can be brought into a theoretically meaningful and important conversation. On the one hand, both strands of research emphasize the constructed nature and constitutive power of social reality. On the other hand, legal consciousness research focuses on the role of ordinary people while collective memory research explicates the contested nature of cultural identities and the efforts by collectivities in the construction of such identities. One major parallel in the two strands of research is the relationship between the institutional manifestation of cultural practices and individual consciousness. For socio-legal scholars, the social environment of legal consciousness is embodied in the institutional forms of legality

such as the written statutes, court proceedings, and legal professions. For collective memory researchers, the institutions of collective representations (e.g. historical texts, commemoration ceremony, memorial sites, and city and street names) constitute the mnemonic structure of individual minds. Both bodies of literature see the social environment and human consciousness as both a constraint on and a product of each other. Combining these two strands of research thus provides theoretical tools that open the door to identify the intractable relation between the law, its cultural background, and individual consciousness.

When Law Meets Memory

Savelsberg and King (2007, 2011) address the reciprocal relationship between law and collective memory. They illustrate how memories are crystallized into legal codes through carrier groups, and how law rectifies certain events as “facts,” establishing their content through its rulings. They also argue that collective memory and legal institutions do not exist in a social vacuum but along with other fields that operate with different institutional logics and thus will either augment or mitigate the reciprocal relation between the two. Their arguments are particularly valuable in supplementing current theories on legal consciousness as they specifically address the issue of law in its cultural and historical context. Their work is limited however, by its institutional focus on both memories and the law. It is not entirely clear whether and how the relationships they identify can also be found in the minds of individuals.

This is an important question because, as argued above, ordinary people are the ultimate enablers and sustainers of social change.

Building on their work, I collaborated with Professor Savelsberg and conducted a pilot study in Chengdu, China in the summer of 2009. The findings from that study frame much of the research presented in this dissertation. We interviewed Chinese people engaged in disputes with the local government and identified three major cultural themes in the narratives of the subjects: a Confucian model, a Socialist State model and an Enlightenment model. Among the three, the Confucian model is most strongly rooted in Chinese history and culture. The Socialist State model promotes an image of the state as a representative of the poor. Last but not least, the Enlightenment model focuses on rights of individual citizens and is competition-oriented. The study reveals that these cultural schemas are backed up by political and social commemorations of and individuals' references to events and figures from the past.⁵ They also tend to be linked to the ways people justify their engagement with law. The findings suggest that the reciprocal relationship between legal culture and collective memory is also present in the narratives of ordinary people (Liao and Savelsberg 2010). Therefore, for my dissertation, I ask more explicit and systematic questions about the relationship between a person's cultural identity primarily based

⁵ Chapter II discusses in detail the potential connection between these cultural themes, the various periods from China's past, and different types of laws.

on but not limited to his/her memories of the past, and his/her understanding of and actions toward the law.

Dissertation Overview

To answer the questions 1) how ordinary Chinese people remember their country's past, 2) how they think of and act toward law, and 3) how their legal ideas are associated with their memories of the past, I conducted a social survey in Chengdu. I contextualize this research and report its findings along a series of chapters. Chapter II discusses the parts of Chinese history relevant to the development of its complex legal cultures -- which was measured in the survey instrument as part of people's memories of China's past. It further introduces the locale of my dissertation research, the city of Chengdu, with information on the cultural, economic, legal, and demographic environment of the city. It then moves on to describe the study design, data collection process, and analytical strategies. It also provides the demographic information for my sample of Chengdu residents. Chapter III identifies the historical moments defined as significant by urban Chinese residents, using data from a social survey I conducted of 560 individuals. Using collective memories as a core indicator of cultural identities, this chapter examines how memories of the past vary across social groups. It further connects people's memories of the past to their perception of law's legitimacy and argues 1) that memories matter to different degrees for different types of laws and 2) that it matters how people remember an event. When their memories of the event are positive, they are likely to see laws that consolidate

the relevant part of national identity symbolized by the event as more legitimate; in contrast, when they remember an event negatively, they are more likely to identify with laws that conflict with the values related to the event. Chapter IV tests and expands theoretical expectations regarding legitimacy and its effect on legal compliance. I find that both 1) the level of perceived legitimacy of law and 2) its connection to expected legal compliance vary based on the type of social relationships targeted by legal regulation (familial, economic, or state-oriented). I also show how China's cultural, political and historical environments contribute to the patterns identified in this analysis. Chapter V examines the conflict-resolution processes of ordinary Chinese people; in particular, it focuses on the factors that contribute to individuals' preference for mobilizing formal resources. The results indicate that, in addition to the social relations regulated by the law, people's understandings of the basic roles of government and law in society and their perceived legitimacy of law also contribute to how likely they will turn to either the court or government agencies for dispute resolution. Chapter VI concludes with a summary of my major empirical findings and elaboration of my theoretical contribution.

Chapter II: Case Background and Study Design

In my dissertation, I try to understand the rapidly changing legal landscapes in China through the eyes of ordinary Chinese people by asking and answering such questions as “why do they obey the law” and “how do they use the law”? I argue that to fully answer these questions, one has to take seriously the historical and cultural contexts of the society under study. In addition, one also needs to attend to the complex social relations that constitute and are regulated by the law. However, current socio-legal studies on China appear theoretically and empirically limited in these respects. In this chapter, I provide a brief outline of the historical legacies that potentially shape the cultural terrains in which the legal consciousness of ordinary Chinese people resides and operates, setting up a background of the empirical chapters that follow. I also analyze how different parts of China’s past are potentially relevant to the various social relations that Chinese people face today. Finally, I describe my research locale, the methods I used to collect data for this project, and the demographic features of my sample, transforming the theoretical questions and concepts I raise to empirical operationalization.

With more than four thousand years of written history, China is a transitional society with a complex past (Fan 1994). The recent period was especially turbulent. Within less than two centuries, China went through the intrusion of colonial powers, the bourgeois revolution and the collapse of its last dynasty, warlordism, World War II and the Japanese invasion, a civil war, and a series of political upheavals, including

the Cultural Revolution, coupled with one of the worst famines in its recent history. The sudden turn to a more open and market-driven economy in recent decades saved many from the despair of starvation, but failed to lift the country from cultural turmoil. Instead, the latest reforms introduce structural and cultural changes that further challenge previous premises of social life (Piao 2008, *Zhonghua Renmin Gongheguo shi* 2008, Tang and Parish 2000, Walder 1996, Wu 1961).

As might be expected, China's legal system has also gone through large-scale reforms. Since the late 1970s, China has produced more than 200 new laws at the national congressional level, including a new Constitution (Li 2008). Accompanying the vigorous legislative effort by the People's Congress, the Chinese government has been intensively involved in the propaganda of "legalization" (*fazhihua*) and "rule of law" (*fazhi*) (Diamant et al. 2005).

The scholarly reaction to this massive transformation in China's legal system is mixed. While mainstream Chinese legal scholars have shown enormous confidence in emerging "modern laws" as guidance for the country's economic and political development (for a review, see Chen 1996), voices from outside China are critical. In fact, few Western observers see the potential of installing the "rule of law" in China (e.g. Alford 1999, Lubman 1999). The critique mainly consists of the "forced" and instrumental nature of legal change (Diamant et al 2005, Holthuis 2002) and a concern over the omnipresence of political power in social and legal life (Tanner and Green 2007, Rooij and Lo 2010). Thus the picture of China's current legal system

remains vague and contradictory: on the one hand, many studies have confirmed the gap between “law on the books” and “law in action” (Wang 1997). They raise questions about law’s capacity to serve as an independent source for the citizenry and to exercise restraint on government behavior (Lin 1997, Perry 2001). On the other hand, it is undeniable that law matters in today’s China more than it ever has (Diamant et. al 2005, Potter 2004).

Both the proponents and critics of China’s legal reforms, however, tend to link their discussion of law and “rule of law” with western conceptions that are flexible and controversial in nature (Dowdle 1999). From this perspective, China’s legal reform is framed as an attempt to “catch up with the rest of the world” (Vermeer and d’Hooghe 2002: viii). The future of China’s legal reforms are seen to hinge on China’s integration into the international system and its exchange of material and cultural goods with other (Western) societies. Such a formulation captures the Chinese government’s effort to gain legitimacy at the international level but neglects Chinese culture’s unique definitions of law and legal institutions (Potter 2004). It also ignores how institutional changes are interpreted and implement in local communities (Liu 2006). The richness of Chinese history provides abundant raw materials for creating a “Chinese identity” to motivate political opinions and actions. Each of China’s major historical periods was marked by a unique legal system and culture (Head 2009), which are also in constant transition. This leaves the Chinese public with conflicted values and creates a sense of cultural disorientation that powerfully

impacts their understandings of important social institutions such as that of law. Therefore, any sociological study of Chinese law that takes culture seriously must consider history's impact on contemporary actors and contemporary actors' (re)construction of history. This following section briefly outlines the cultural landscape of China with a focus on its complex legal cultures.

Complex History and Colliding Legalities

Based on official historiography of mainland China, China's written history is roughly divided into three major sections.⁶ The ancient history of China (Imperial era) stretches for a few thousand years starting as early as 1200 BC. The recent history of China (Republican era) started with the first Opium war in 1840 and lasted through the entire life-span of the first Republican (Republic of China) regime in China. The contemporary history (Communist era) began in 1949 when the Communist Party took power and established the People's Republic of China (PRC). Each of the three eras is marked by a complex and yet distinctive cultural legacy, including the role of law. A detailed documentation of the historical roots and contents of these philosophical schools is well beyond the scope of this dissertation. Instead, the discussion in the rest of this section is meant to provide the readers with the kind of

⁶ As discussed previously, there are many nuances within and between these historical periods. This dissertation is not attempting to (re)construct an "authentic" timeline of Chinese history but to present an overview that is readily available to the subjects of my research.

knowledge an ordinary Chinese person is likely to possess so as to understand the rationale of the study design.

Although ancient China is known to have hosted a variety of philosophical schools (Schwartz 1985), the Confucian school of thought is commonly considered to be the dominant cultural discourse between one of the first dynasties, Han, and the last, Qing (Liang 2009, Zhang and Schwartz 1997, Tu 1990). Transitions from one emperor to the next were accompanied by variation within the school but the main theme remained consistent. It focused on the exploration of the connection between one's self, family, nation, and the world (Zhang 2006). Within this larger cultural schema, the society is considered to operate under the same logic as a family, the "natural" cell of the social world. Therefore, the government is seen as parental, as loving, caring, and protective, albeit authoritative. Law is considered part of the "natural order", in particular, an extension of the rules within families (Liang 1991). In the rest of this dissertation, I refer to the **Confucian Model** to mark this line of thinking.

At the turn from the 19th to the 20th centuries, when China was faced with increased tension and conflict from within and invasion from without, elite intellectuals started looking outside for answers to save the nation. Combining American and French revolutionary philosophies with a sentiment against the ethnic minority rule of the Qing Dynasty, groups of revolutionaries organized a series of uprisings which eventually led to the abdication of the last emperor and the

establishment of the first constitutional democracy in China,⁷ the Republic of China (ROC) (Xue 2011, Zhang 2011). The establishment of the Republic and its failure urged intellectuals to further question the “inherent weakness” of the Chinese nation and culture. A “New Culture Movement” thus called for even more radical revolts against Confucianism and the establishment a new Chinese culture based on global principles, particularly such Enlightenment-driven concepts as democracy and science (Wu 2008, Hummel 1930). Soon the intellectual movement split up between those who sought to stay close to the political models established in Europe after the Enlightenment movement and those who demanded different changes inspired by Marxist teaching and the Russian Revolution. Mao Zedong is the most well-known and influential among the latter (Guo and Wu 2010). The intellectual gulf was paralleled by the struggle between the official government of the Republic led by Kuomintang (KMT, Nationalist Party) and the communist regime led by the Chinese Communist Party (CCP). The latter eventually won a brutal civil war in 1949 and overthrew the KMT government. In the rest of this dissertation, I refer to the one school of thought developed in the New Culture Movement as the **Enlightenment Model**. Under this model, the power of the state is based on a contractual relationship with its citizenry—people give up parts of their freedom in exchange for the

7 There is debate over the extent to which the newly founded republic is indeed democratic but formally, it is organized under the intuitional rules of a democracy.

protection from the state (Rousseau 1762). Law, in this case, is the specific provisions of such social contract.

While this line of thinking was prominent in the early years of the Republican era, the Marxist-Maoist school became dominant as the CCP seized power. Consistent with the current *Constitution of the People's Republic of China*, which categorizes China as a socialist state, I refer to this officially recognized discourse as the **State Socialist Model**. This model defines the current regime in China as a “people's democratic dictatorship” (人民民主专政) whose essence is the dictatorship of the proletarian class (Constitution of PRC). Law in this case, is defined as the collective will of the people, specifically the proletarian class, and a tool of class struggle. Definitions as such entail strong and centralized state power and implicitly sanction state violence against enemy classes.

After Mao's death, the successive leaders of CCP continued to uphold the basic principles of this model. However, with China's increasing integration into the global economy and involvement in international Human Rights discourses,⁸ the concept of rights, which resonates with the **Enlightenment Model**, has once again entered into debates (though mostly in academia). In addition, in the early 2000s, as

⁸ China has signed and ratified almost all the major human rights treaties under the UN framework except for the International Covenant on Civil and Political Rights. It also has been actively adopting the language of human rights in various official reports and press releases, albeit with the unconcealed intent to (re)define the concept. In 2004, the National People's Congress adopted an amendment to the Constitution that included human rights as basic civil rights.

increasing inequality led to intensified social conflicts, the CCP leadership developed the discourse of “Harmonious Society”. While explicitly serving a socialist goal, this discourse revitalized and reconceptualized such elements as natural harmony and social order under the **Confucian Model** to legitimize the state’s effort in maintaining stability (维稳), sometimes through undemocratic tools such as censorship (Zheng and Tok 2007). Therefore, in today’s China, legal ideas based on different complementary as well as conflicting cultural discourses coexist, rendering “Chinese legality” an inherently complex concept.

Meanwhile, the social relations from which law arises and on which law exercises constraints further add to the complexity. Previous legal consciousness research demonstrates the constructed and constitutive nature of law and legality by examining how they intersect with other social structures such as family (Hartog 1993), race/ethnicity (Goldberg-Ambrose 1994), gender (Witt 2000), and sexuality and marriage (Hull 2003). Therefore, in my dissertation, I propose a relational/contextualized (de)conceptualization of law. Specifically, instead of treating “law” as an overarching and homogenous entity, I propose to systematically deconstruct law along the different social relations it regulates. Based on fundamental characteristics of contemporary Chinese society and how different laws regulate and shape the various aspects of social life, the analysis in the following chapters focuses on three kinds of social relations, namely **family relationships, state-citizen relationships** and **economy-related relationships**.

I chose the three spheres of social life based on their significance in contemporary Chinese society: family relations; relations with the state; and economic relations. Each sphere is closely connected with one of the three most influential intellectual traditions discussed above. As a kinship based society, imperial China placed paramount importance on the institution of the family and mutual support among family members as the basis and core of social and legal orders (Ebrey and Watson 1986; see also Fei 2005). Although the political turmoil and economic reforms in recent Chinese history have modified the specific structure of contemporary Chinese families (Quach and Anderson 2008), the value of family ties as the foundation of social life has never been seriously challenged.⁹ Therefore, Confucian legal ideas are most relevant to family laws in today's China as the relationships within the family are still mostly regulated by notions of traditional morality.

Meanwhile, the illiberal and undemocratic nature of the Chinese government renders the relationship between its state and citizens a unique context for socio-legal studies. In post-Mao China, the socialist state still has a strong grip over political

⁹ Mao launched a series of attacks against the “feudalist culture” during the Cultural Revolution and attempted to trump family ties with class struggles. However, in post-Mao China, the Cultural Revolution is considered a grave mistake and one of the reasons cited is its destruction of “traditional culture”. As argued by some China scholars (e.g. Zhao 2000), in contemporary China, as the ideological ground of the socialist state decays, moralistic legitimacy becomes increasingly important; and one way for the government to build such ground is to revive the discourses surrounding familial values.

power and limits the development of civil society (Zhao 2000). Studies on the Chinese legal system have repeatedly documented the influence of political factors in a variety of legal domains (Tanner and Green 2007; Qin 2007; Rooij and Lo 2010). Therefore, it is reasonable to assume that in the political realm, law is most likely subject to the influence of the official discourse of the State-Socialist model.

Finally, the importance of economic relationships lies in the role of economic reform in motivating China's legal reform. Many have argued that the main objective of the legal reform is to ensure healthy and sustainable economic growth (Potter 2004, Lubman 1999, Chen 1996). As China models its economy-related legal system after Western economies (Vermeer and d'Hooghe 2002), one may conclude that the law functions in a similar manner in China's markets as it does in these other market-driven economies. Therefore, Enlightenment-driven legal ideas are most relevant to laws regulating economic relationships.

Chengdu

I focus on one major city, Chengdu, the capital of the Sichuan province. Chengdu has some 14 million inhabitants according to the 2010 census. I selected this city as the research site because it presents some of the most important characteristics of China's urban and social development (Wang 2008). Its inland location means that it is not as heavily influenced by globalization as other mega cities such as Beijing or Shanghai, allowing it to maintain more of the traditional characteristics of Chinese culture. Yet, its strategic importance in the economic development of western China

calls for “modernization.” Thus, on-going reforms produce colliding cultural discourses in this city. This social context allows us to observe a variety of coexisting, sometimes contradicting, legal ideas and behaviors. Such variation crystallizes how legal compliance behaviors may be associated with legal ideas. Chengdu thus is likely to have a mixture of cultural materials that is well suited for this project.

Method and Data

To gather data for this project, I conducted a social survey with 556 individuals randomly sampled from all Chengdu urban residents.¹⁰ Survey methodology has been critiqued for obstructing the complexity of legality and legal consciousness with standardized variables as measures of fluid meanings (Silbey 2005). I concur with the substance of this argument and address the limit of my methodology with regard to the various aspects of my research questions in each empirical chapter. However, I also contend that, despite their shortcomings, social surveys produce indispensable information on the broad patterns of social phenomena and generalizable relationships among social forces. In the context of China, where socio-legal research is not abundant, such information is valuable in establishing baseline facts for more nuanced research.

One main caveat when interpreting my survey findings is that the associations I identify and describe in the following chapters do not necessarily constitute causal

¹⁰ The survey was conducted with the help of the Western China Social Survey team.

relations. My theoretical arguments suggest that people's legal consciousness is likely to be a result of their larger cultural identities, as reflected in their memories of the past, and that such consciousness further shapes their behaviors toward the law (legal compliance and mobilization). However, the operation of individual consciousness and of larger cultural structures is much more complex. Chances are that different components measured in my survey draw from each other. A cross-sectional survey cannot provide sufficient evidence to make definitive casual arguments. Therefore, all arguments regarding the direction of associations in the dissertation are based on theoretical reasoning for the sake of analytical clarity instead of empirical data.

To my best knowledge, this survey is the first in China to specifically focus on the connection between collective memories and legal consciousness. To avoid bias in answers, the instructions for the survey questionnaire did not specify the connection between memory/history and law as the major objective. Instead, it described the instrument as a general poll of social values among Chengdu residents. The survey consists of three major sections. Section I covers the cultural attitudes of the respondent, including but not limited to their memories of China's past. Section II surveys their ideas of and potential behaviors toward the law. Section III collects demographic information. A complete survey questionnaire in both English and Chinese is attached as appendixes. In the following chapters, I describe how I measured memories and legal consciousness in detail as they become relevant in the analysis. A note on my measurement of collective memories is in order. I utilized

open-ended questions to capture a wide range of responses. These did not entirely map onto the three eras of Chinese history that I have highlighted in this chapter. As a result, my findings reveal a more complex process of (re)construction of the past than I had anticipated in my hypotheses, which were based on the three categories. I discuss these discrepancies and their implications in the empirical chapters that follow.

To implement the survey, I trained a team of 50 interviewers who then conducted in-house surveys. The training covered basic interview skills and the intention of the survey questions. Stratified probability sampling strategy was utilized to ensure the representativeness of the sample. Specifically, 28 neighborhoods¹¹ were randomly selected from the urban area of Chengdu city; 20 households were randomly sampled from each chosen neighborhood and finally one individual between the age of 18 and 79 was randomly selected from each household. In the sampling of neighborhoods, I was assisted by the Chengdu Statistics Bureau. The complete list of neighborhoods is considered confidential information to persons without special government permission. The survey team sampled within neighborhoods. Team leaders visited each of the 28 neighborhood offices to obtain a

11 Neighborhood is called “Jiedao (街道)” in Chinese and is the local administrative unit in urban China. According to the “Organizational Law of the Local People’s Congress and Local People’s Governments of the PRC”, county-level governments could set up delegated offices in smaller areas within their jurisdiction and these areas are called Jiedao (Neighborhood). Neighborhood officials are in charges of keeping detailed registration information of all households in their neighborhood.

list of registered households and their addresses. A list of 20 households was then randomly drawn from the each neighborhood. Finally, when an interviewer entered a household, he/she chose the person to be interviewed based on a randomization schedule.¹² The interviewer then read the survey questions to the selected individual and filled out the questionnaire with answers provided by the respondent. Four of the surveys were discarded due to respondent ineligibility (age beyond 79), resulting in a sample size of 556.

Types of Laws

As discussed before, I focus on three types of social relations regulated by law, namely family relations, state-citizen relations, and economy-related relations. For Chapters III and IV, I distinguish between public and private economic relations. I chose two specific legal provisions from each category to construct law-related measures. These will be discussed in more detail in the remaining chapters, but I provide an introduction to their operationalization here.

Two specific legal provisions were chosen from numerous **family laws** in China. These are laws providing that 1) parents are responsible for raising their underage children and 2) adult children are responsible for supporting their aging

¹² The random selection of individuals within households was based on their birthdays. The interviewer registered the birthdays of all household members, calculated their ages and thus eligibility for the survey, and picked the eligible person whose birthday was closest to the interview date as a subject. If nobody was at home to answer the door or if the selected individual was not on site, the interviewer was instructed to revisit the household three times and then move to a different person in the household.

parents (Article 21, Marriage Law of the People's Republic of China). These two laws are chosen because filial piety and parental love are the most essential and consistent features of discourses surrounding Chinese families (Yue and Ng 1999; Knapp 2005).¹³

The two specific provisions chosen from laws that regulate **state-citizen relations** are 1) family planning laws (Population and Family Planning Law of the People's Republic of China) and 2) laws that restrict individuals' ability to participate in political groups and demonstrations (Law of the People's Republic of China on Assemblies, Processions and Demonstrations). These laws are chosen because they characterize the unique relationship between the Chinese government and its citizenry. I explain each in turn.

In China, reproduction is not an issue of individual (women's) rights but instead is regulated to meet the needs of the collective (Lee and Feng 2001). In particular, after 1978, the Chinese government implemented controversial family planning policies that made the regulation of reproduction formally the business of the state (Savage 1988). Since then, the number of children per family is defined first and foremost as an issue related to population control (Tribe 1992). This state intervention into individuals' private lives has invited mixed domestic and international reactions

¹³ Institutions such as marriage, while remaining unique and closely tied to traditional Chinese culture, have gone through considerable reconstruction (Quach and Anderson 2008).

and is said to illustrate China as an oppressive state (Crane and Finkle 1989). China's family planning laws thus provide a good example of its regulation of the state-citizen relationship.

Similarly, in China, people's freedom of association and demonstration is limited. The state represses demonstrations with force and takes protesters into custody, often without fair trials and proper procedure (Polumbaum 1991; Kaiman 2013; Tang 2013). Laws that limit the freedom of association and demonstration thus constitute another example of how the Chinese state attempts to regulate its citizenry.

This study focuses thirdly on **economic regulations** affecting interactions among non-intimate parties.¹⁴ It further distinguishes between laws that protect private economic interests and those that regulate public economic relationships. The distinction is meaningful to the extent that, under an authoritarian and ideologically socialist state, public economic laws should be more legitimate. Meanwhile, infringement upon the public interest is considered a violation of the state's interest which can invite intense and repressivet state intervention (Los 1983; Savelsberg 2000). As examples of laws in the private economic realm, I selected intellectual property rights laws and theft laws,

¹⁴ I am aware 1) that people interact with strangers in ways other than economic transaction and 2) that other groups such are friends, colleagues, neighbors, also play important roles in people's social life. Economic relationships are chosen because of their significance as driving forces of the legal reforms in China. Meanwhile, other groups are likely located between strangers and family members on the spectrum of familiarity and intimacy. This study looks at the extremes of the spectrums as examples of more nuanced variation.

specifically, laws that regulate downloading unauthorized materials and knowingly purchasing stolen property.

To illustrate obedience to laws in the public economic realm I chose tax laws and laws that guard against the private appropriation of public resources. These two laws were chosen because they are pertinent to different social groups. The national minimum wage for paying personal income tax is 2,000 RMB/month, which is close to average personal income levels in urban China in 2012 (National Bureau of Statistics 2013). This means that tax laws are more relevant to Chinese people who are relatively well-off. In contrast, the appropriation of public resources, such as water and electricity, is more prevalent among people with lower income levels who tend to live in housing provided by their work units.

The Sample

Table 2.1 reports the distribution of the demographic variables. It shows that the sample of this study is made up of a diverse group of individuals. The participants of the survey ranged from 18 to 79 years in age by study design. On average, they have about 12 years of formal education, an equivalent of a high school degree in the Chinese context. As an indicator of the extreme economic inequality in China, monthly household expenditure varies drastically, ranging from 300 RMB (less than 50 USD) to 50,000 RMB (more than 7,000 USD) per month. About 58% of the respondents are female and more than a fifth are Communist Party members. Aside from gender, the distributions of most demographic variables among the sample are

comparable to recent census data for similar geographic regions (National Bureau of Statistics 2012).¹⁵ There is no reason to suspect that respondents included in this study vary systematically from the general adult population in Chengdu in terms of their ideas about and behaviors toward the law. Therefore, by controlling for a number of demographic variables in the statistical analyses, the findings and conclusions based on this sample are meaningful indications of patterns among ordinary residents in Chengdu, a typical urban setting in contemporary China.

Table 2.1 Distribution of Demographic Variables

Variable	Statistics	N
Age (mean \pm SD, median [range])	45.7 \pm 15.4, 46, [18-79]	555
Sex (% female)	58.1%	556
Years of formal education (mean \pm SD, median [range])	11.8 \pm 3.8, 12, [0-22]	554
Political affiliation (% party member)	20.5%	556
Household monthly expense in RMB (mean \pm SD, median [range])	3693.9 \pm 3893.9, 3000, [300-50000]	529

¹⁵ To my best knowledge, there is no detailed census data available for the exact same sampling frame as mine. Therefore, I based the comparison on the 2005 1-thousandth census sample data of urban Sichuan, the province where Chengdu is located. The gender distribution of my sample does seem to differ slightly from that population (where there are 52% women for the same age group). However, by controlling for gender in all my analyses, I address the possibility of men and women differ systematically in any of the processes in which I am interested and thus the connections I found among memories, legal ideas, and potential legal behaviors are still meaningful.

Chapter III: Linking Memories to Legal Ideas

The central argument of my dissertation is that both legality and legal consciousness are culturally and historically specific. I argue that currently legal consciousness studies on China, while informative, still do not adequately address the country's complex history and cultural legacies. Studies in various disciplines have shown that retrospective accounts are essential in creating and sustaining continuous identities of individuals (Davis 1979), communities (Bellah et. al 1985), and nations (Tsutsui 2009). In the context of rapid social change, social memories form the bridge between the past and the present and provide strategies to cope with the uncertain future (Encarnación 2008, Curry 2007, Brito, Enriquez, and Aguilar 2001). Therefore, in this chapter, I introduce the theoretical concept of collective memories and outline the cultural terrain of my study setting to contextualize the discussion of legal ideas and behaviors of Chinese people described in later chapters.

I start by demonstrating why a historical notion of culture is necessary in the study of contemporary China and Chinese law. I then provide a brief overview of the basic concept of collective memory and its connection to law, introducing specific hypotheses based on broader theoretical expectations. After explaining the key variables for this chapter, I elaborate my findings in thematic orders, revealing the patterns of collective memories among Chinese urban residents, how they vary across social groups and how memories are associated with people's perception of current laws. I conclude that memories, as a constructed vision of the past, are crucial to

understanding the fluid cultural identities, including legal consciousness of ordinary citizens in the context of profound reforms.

Historicizing Legal Consciousness

The study of legal consciousness in China, although still emerging, has borne some fruit. Gallagher (2006), for instance, finds two related but distinct patterns of understanding law through experiences with the court among legal aid clients in a Shanghai law firm. As they became familiar with the legal system that was once distant and seemingly mysterious, these plaintiffs displayed an increasing confidence in engaging law more strategically, but a decreasing respect for law as fair and just. This divergence in different aspects of legal consciousness, which Gallagher aptly names “informed disenchantment”, clearly resembles the ambivalence expressed in most legal consciousness studies in the United States where most legal consciousness research is based. In an international comparative study that includes China, Jacobs (2007) also confirms the multiplicity of legal consciousness, and he refers to the difference in cultures as an explanation for the variation.

These studies are informative as they reveal the necessity of taking culture seriously in the study of legal consciousness. Like most legal consciousness studies (Merry 1990, Tyler 1990, McCann 1994, Marshall 2005, etc), they are limited by the lack of attention to the cultural origins of legality and legal consciousness. “Legal culture” as the basis for most analyses is treated as an assumption instead of a theoretical concept that also requires being defined, categorized and analyzed. This

problem becomes especially pronounced in the case of China, as argued in Chapter II, where the basic categories regarding law contradict those of the western “rule of law” model and are not internally consistent (Head 2009). In the stories of Gallagher (2006) and Jacobs (2007), “rights” and “entitlement” seem to always be at the center of the argument, especially when the discussion involves the legitimacy and hegemony of law. This suggests an implicit but close bond between awareness of rights and respect for law. For countries like the United States, where very basic social relations are formulated by borrowing concepts from law, this bond might make intuitive sense (Ewick and Silbey 1998). Yet, China fundamentally differs from the United States when it comes to legal tradition or state formation. Specifically, “private right” was never a presumption or even implication of law in traditional Chinese culture (Liang 1996, Diamant et al. 2005, Gu 2009).

To explore the extent to which various legal cultures simultaneously inform the legal ideas and behaviors of Chinese people, I collaborated with Professor Savelsberg to conduct an interview project in 2009. I interviewed a dozen Chinese people engaged in disputes over relocation issues with their local government. Five of these individuals resorted to court while the rest opted for other revenues to address their grievances. The interviews focused on the processes of the conflicts and the actors’ choice whether to litigate. The interviews showed that subjects indeed refer to the three larger cultural discourses discussed in previous chapters, namely the Confucian Model, the Enlightenment Model, and the State Socialist Model.

Therefore, at least in the case of contemporary China, to arrive at a sufficient understanding of legal consciousness is not only to decipher what people think of and do with law but also to trace their motivation to different cultural origins, to explain the coexistence of these different cultural schemas and to understand how these schemas and people's minds and behaviors penetrate each other. As argued in Chapter II, each of these models, while constantly being reinvented by current actors, has deep historical roots in various eras of China's long history. An understanding of China's past as reflected in the minds of Chinese people today thus is critical for the understanding of its current legalities.

As we have seen the complexity of legal culture and legal consciousness in China and its possible relation to China's past, I introduce the concept of collective memory to accommodate the need of taking seriously the rich history of China in understanding Chinese cultures in general and Chinese legal cultures in particular.

Collective Memory

1. The Social Origins of Memories

I use collective memory the way Halbwachs (1992) has coined it, which is a "sociological perspective with a particular emphasis on the impersonal, conventional, collective, and normative aspects of the process of remembering." (Zerubavel 1996: 283). Challenging empiricist and Kantian apriori conceptions of knowledge (Savelsberg and King 2007), this constructionist notion of memory echoes earlier voices on individual memory (Bartlett 1932, Davis 1979) but attributes even heavier

weight to its social origin. Since “it is in society that people normally acquire their memories; it is also in society that they recall, recognize, and localize their memories” (Halbwachs 1992a:38), remembering is as much social as it is personal and memory itself is a “social, inter-subjective phenomenon” (Zerubavel 1996: 297). The logical outcome of memory so defined is that there should be systematic patterns of memories among members of a society. Therefore, the first set of objectives of this chapter is to examine and present the patterns of Chinese people’s memories. Chapter II described the three major historical periods of relevance to my dissertation, namely the Imperial era, the Republican era and the Communist era. The three historical periods are not equally represented in materialized commemoration. For example, as indicated in Table 3.1, the majority of China’s seven national holidays (Spring Festival, Qiming Festival, Duanwu Festival and Zhongqiu Festival) are adopted from long-standing folk traditions, potentially providing rich cultural materials for individuals in their imagination of the nation’s history and tradition. Two of the three other national holidays (Labor Day and National Day) are linked to the communist movements. In contrast, there is no national holidays dedicated to the Republican era.

¹⁶ Similarly, among the 96 first-tier state-owned museum operating in China in 2012

16 Understanding the last of the seven holidays (New Year’s Day) requires a brief review of its history in China. Before 1912, New Year’s Day (元旦) had always referred to the first day of the lunar calendar. The switching of meaning happened on January 1st 1912, the day of the establishment of the Republic of China after the capitalist revolution of 1911. Afterwards, it was celebrated also as the founding day of the Republic. In Taiwan, where the government considers itself a continuation of the Republic of China, the New Year’s Day is

(source: State Administration of Cultural Heritage), only five are dedicated to events and figures in the Republican era. Four of them are associated with China's struggle against Japanese colonization and only one is dedicated to the founding father of the Republic.¹⁷ Therefore, I expect this silence in public and collective commemoration to correspond with a lack of memories in individual minds.

Hypothesis 3.1: Fewer Chinese people remember events and figures from the Republican era than from either the Imperial or Communist era.

Table 3.1: China's National Holidays

Name of Holiday	Date	Content of Celebration	Days off
New Year's Day	January 1 st	Beginning of a calendar year	1
Spring Festival (Lunar New Year)	Varies (first day of the lunar calendar)	Beginning of a lunar year	3
Qingming Festival	April 5 th	Memorial day for ancestors	1

also called the Founding Day of the Republic of China. However, in mainland China, the celebration of this holiday is totally deprived of any political or historical implication. (The discussion of the debate over the nature of Taiwan's current regime and its connection to the ROC government in and outside Taiwan is beyond the scope of this chapter). The absence of mnemonic contents constitutes an unstructured "overt silence" that might contribute to the forgetting of the celebration's origin (Vinitzky-Seroussi and Teeger 2010) and the historical background attached. Actually, a comparison between the lists of official holidays of the two countries/regions offers an interesting insight into how collective commemorations reflect and reconstruct collective memories. Both countries/regions celebrate the same traditional holidays and the New Year's Day (with different meanings). In addition to that, Taiwan celebrates Peace's Day on Feb. 28th and National Day on October 10th. The first commemorates a violent conflict between the islanders and the government Chongqing (the Capital of the Republic during WW II) in 1947 and the latter celebrates the victory of the bourgeoisie revolution in 1911.

¹⁷ There are seven and sixteen museums respectively dedicated to the Imperial and Communist history. The vast majority of these museums are either not for historical content or cover the general history of a region. Without reviewing the specific content of each museum, which is far beyond the scope of this chapter, I cannot conclude how much commemoration is dedicated to each historical period.

Labor Day	May 1 st	The 1886 Chicago Strike	1
Duanwu Festival (Double Fifth Festival)	Varies (the fifth day of the fifth month on the lunar calendar)	Beginning of summer and the famous poet Qu Yuan	1
Zhongqiu Festival (Mid-autumn Day)	Varies (the 15 th day of the 8 th month on the lunar calendar)	The full moon and the get-together of families	1
National Day	October 1 st	The establishment of PRC	3

2. Multiple Memories

The understanding of collective memory as constructed and malleable naturally leads to the conclusion that the social location of a person dictates his/her memories of the past and thus there is a systematic but not unified vision of the past. As a student of Durkheim, Halbwachs is both sympathetic to and cautious about his teacher's collectivist overtones.¹⁸ Instead of talking about Society as a single collectivity and the moral force of "collective conscience" (Durkheim 1964), Halbwachs (1992) points to the location of individual carriers of memory in different groups and notes that there are as many different collective memories as there are carrier groups. Building on this notion of group-specificity of collective memory, later works have demonstrated how people and groups fight vigorously for their stories of the past. As a result of these mnemonic battles (Zerubavel 2012), there exist state histories and counter histories (Alonso 1988), official and vernacular memories (Bodnar 1992), master and competing narratives (Tsutsui 2009). I thus expect to

¹⁸ For a review of Durkheim's (implicit) contribution to collective memory study, see Misztal 2003.

observe systematic variation in memories among Chinese people based on their membership to different social groups. Specifically, I anticipate that:

Hypothesis 3.2A: People of higher socio-economic status (SES) are more likely to consider events and figures from the Republican era as important.

Hypothesis 3.2A is based on the common understanding of the Republic of China as the product of a bourgeoisie-led revolution (Xue 2011, M. Zhang 2011). The communist Chinese government after 1949, while never denying the historical significance of relevant events and figures from that era, never fully embraced them in the form of national commemoration or holiday as it does for other historical periods. Meanwhile, such events and figures occupy large sections of history text books. In addition, in high-end cultural production, such as literature, a contained nostalgia of the Republic era has been a long-standing theme (e.g. Zhang 2004). Therefore, I expect the exposure to formal education and elite cultural products as well as identification with the bourgeoisie leaders will lead to more appreciation of the Republican history. In contrast, I expect the Communist Party members, those who are most closely connected to the political core of the state and who have arguably benefited the most from a communist regime, to be more appreciative toward the history of the communist movements, particularly those during the Maoist era when political capital was of greatest value.

Hypothesis 3.2B: Communist Party members are more likely than non-members to consider leaders and achievements of Maoist movements as important.

3. The Problem of Cohort

In addition to social standings, memory scholars have been particularly interested in how age *cohort* may be a factor in whether and how people remember the past or, in turn, how the memory of important historical events can mark a certain age group as a cohort. Mannheim (2013[1952]) argues that distinction among generations¹⁹ is not biologically inevitable but created through major social and political events collectively experienced by members of each cohort during their formative years. Where unusual events are rare and change is slow, as in traditional peasant societies, distinct cohorts may not appear. Only where events occur in such a manner as to demarcate a cohort in terms of its "historical-social" consciousness, should we speak of a true cohort. Empirical research has attested to this theory by demonstrating how the significance (Wohl 1979) and timing (Schuman and Scott 1989) of events can be consequential to cohort identity formation. The effect of significant events in identity formation thus depends on how they are experienced by various cohorts. In other words, for events that are not experienced by any living cohort or are being experienced by all age groups, cohort should not be a relevant concept. Therefore, in this chapter, I test the cohort effect of memory. I expect that memories of events during the early Communist era, particularly the Cultural

19 The Mannheimian term "generation" is usually considered equivalent to "cohort" in most other scholars' work on collective memories. I will use the term "cohort" in its place hereafter.

Revolution, as the iconic event of the Mao era, will distinguish those who were of formative age at that time from those who are either too young to remember it or too old for it to be influential. I expect so because those events were experienced by multiple age groups within my sample at different stages of their life trajectories. In contrast, events in the Imperial era and the Republican era were either never experienced by any of the respondents or only experienced by the oldest group in their early years. Therefore, I do not expect to see any cohort difference for memories of these earlier historical periods.

Hypothesis 3.3: People who experienced significant events during their formative age, which is late adolescence or early adulthood, will be most likely to mark these events as important. Respondents in their late teens when the Cultural Revolution started in 1966 (i.e. people between age 62 and 65 in 2012) are more likely than others to recall the Cultural Revolution as an important part of China's history.

Memory and Law

Scholars have generally come to agree that collective memories are at least in part represented in "*rules, laws, procedures, precedents, records, files, books, holidays, statues, mementos*" (Schudson 1994:51, emphasis added) of specific institutions-which conforms to the more abstract proposition that institutions remember (Douglas 1987). In other words, law itself constitutes the crystallization of a nation's remembrance of and response to its own past. The relationships between

law and collective memory lay at the foundation of many countries' founding myths. Legal documents such as Magna Carta and the Declaration of Independence are essential for understanding their respective societies' beginnings and values. Negative memory of the past can also serve as a reminder to society and compel legal changes so as to prevent history from taking the same trajectory in the future (Alexander 2004b, Savelsberg and King 2011) or the suppression of such memory can limit the possibility for legal change (Balfour 2003).

Meanwhile, law exerts both inducement to and constraints on the formation, institutionalization and changes in collective memories as well. Authors as early as Durkheim (1964) have been attentive to the ritual function of trials in reinforcing social solidarity through degrading the person on trial (Garfinkel 1956), clarifying the wrongs in the past and preparing ground for future redress (Borneman 1997). Others emphasize how law allows discontenting actors to converse with one another (Osiel 1997). Both criminal prosecution and civil confrontation can be seen as ways in which different parties struggle to define the "truth" about the past and thus contribute to the formation of collective memories. Sometimes, law even gives direct answer to what is "true" when there is no other way to find out, as in the case of death on the battle field or missing person (McEvoy and Conway 2004). Law can even be the object of memory (Kwiatkowski 2006). Yet, law's contribution to collective memory is neither entirely genuine nor without limitation. The reconstruction of the past is bound to be selective due to particular institutional rules of law such as its evidentiary

standards, binary logic, and individualization tendency (Giesen 2004) and changes in all these aspects. Law also influences how we remember the past by restricting access to historical documents (Markovitz 2001) and the distribution of certain types of knowledge (For a comprehensive review and empirical elaboration of the dialectical relationship between law and collective memory, see Savelsberg and King 2007; Savelsberg and King 2011).

The dialectic relationship between memory and law is of particular importance in the understanding of legal reforms in transitional societies where drastic social changes have brought the past into direct conflict with the present and the future. The final objective of this chapter thus is to explore the connection between what is known to be important in the past and people's ideas about current laws. As outlined in Chapter II, originated from different historical eras, the three cultural models are also relevant to different types of laws. In designing the survey, I did not constrain the respondents' memories of the past by providing them categories. The connections among the cultural models, the historical eras, and different types of laws are based on theoretical speculation. The goal of this chapter is to empirically test those connections. Specifically, dominant in ancient China, the Confucian model is most relevant to laws that regulate family relations; dated back to the Republican era, the Enlightenment model is closely tied to the market and economic transactions in contemporary China; and the current official Socialist State model is likely to be influential in the domain of state-citizen interaction. Therefore, I expect that people with memories of different historical eras

will show varying levels of support to laws across social relations. In addition, I expect that those who deem the Communist era as the most important are more likely to be supportive of the current communist regime and thus are more likely to view the laws under the regime as legitimate in general.

Hypothesis 3.4A: Those who are more appreciative of histories of the ancient China are more likely to consider family laws as legitimate.

Hypothesis 3.4B: Those who are more appreciative of the Republican era and the bourgeoisie revolution are more likely to find the laws regulating economic relationships as legitimate.

Hypothesis 3.4C: Those who are more appreciative of the Communist era will rank the overall legitimacy of law higher than people who remembers the other two eras. In particular, they are more likely to acknowledge the legitimacy of laws that strengthen the political power of the state in particular.

Key Variables and Statistical Models

The data used to test the above hypotheses come from the survey instrument described in Chapter II. For this chapter, I utilize a methodology proposed by culturalist scholars to operationalize the concept of *collective memory*. There has been a long-standing debate over what memories are truly “collective”. Some maintain that only materialized objects independent of human consciousness such as monuments, rituals and written texts can be the vehicle of collective memory (Pierre Nora 1996,

see also Terdiman 1993). However, since the late 1990s and early 2000s, there have been arguments for bringing individuals back to the study of collective memory (Wertsch and Roediger 2008). As noted by Halbwachs, despite his emphasis on the social nature of collective memory (or any kind of memory), the carriers of collective memories are still *individuals* in groups. A more comprehensive approach thus sees collective memories as “meaning-making” cultural reservoirs (Schwartz 1996) from which everyday folk draw resources and to which they contribute (Schwartz and Schuman 2005). Therefore, I measured collective memories through aggregating and systematically looking for patterns in individual answers to questions regarding the past.

Memories of the Past

A series of questions in the survey concern people’s memories and evaluations of China’s past. The list is as follows.

- 1) What do you think is the most important event/change throughout Chinese history?
- 2) What do you think is the most important event/change since the People’s Republic of China was established?
- 3) Who do you think is the greatest thinker in Chinese history?
- 4) Who do you think is the greatest political leader in Chinese history?

To avoid bias by my assumptions of Chinese history, all questions are open-ended. These four questions are designed to capture the various aspects of national identities. I first conducted frequency analyses of the events/changes/figures and

created dummy variables for those most frequently mentioned—those mentioned by at least five percent of the respondents.

To examine how memories of the past vary across social groups, I conducted logistic regressions to identify socio-economic and demographic characteristics associated with the odds of it being mentioned. The demographic variables used in the analyses for this chapter are described in Table 2.1.

Legitimacy of Law

I measured the respondents' *perception of law's legitimacy* by asking how much they thought the violation of law also violated core social values. The question was worded as follows,

How much do you think each of the following behaviors violates our core social values?

The respondent was given a list of behaviors that violate various Chinese laws and was asked to assign a score of 1 to 4, the larger the score, the more the behavior violated social norms and thus the more legitimate the legal rule that restricts the behavior.²⁰

The eight behaviors included in the survey constitute violations of the four larger categories of laws discussed in Chapter II: 1) laws that govern family relations, 2) laws that regulate the relationship between the state and citizens, 3) laws that protect public economic interests, and 4) laws that protect private economic interests.

²⁰ The labels associated with the four numbers are: 1—no violation at all, 2—a little violation, 3—some violation, and 4—much violation.

Appendix A gives a full list of the eight behaviors in the order in which they appeared in the questionnaire. Except for violations of the family-planning policy that only constitutes civil violations, all behaviors could result in either civil or criminal sanctions. The circumstances and severity of violations were not described in detail but left to the respondent's own judgment.

For the statistical analyses described below, I aggregated the score of different behaviors within four categories of laws as well as across all types of laws. Since there are two laws within each category and eight laws in total, the final non-compliance scores are variables with either seven (2-8) (for each type of law) or twenty eight (5-32) (for all laws combined) possible values.

The wording of the question was designed to emphasize the "*social*" aspect of law's legitimacy instead of the respondent's personal value judgment. The survey interviewers were trained to clarify "core social values" as meaning "values that you think the larger society holds as important, not necessarily your own values". The legitimacy of law is seen as hegemonic not because it resonates with the personal philosophies of its subject but rather its link to some "larger" values that transcend personal ideas and interests and to which we should defer.

In line with the Weberian categorization of substantive and formal legal rationalities (Weber 1978), contemporary socio-legal scholars in the U.S. attempt to explore whether each, the content and the formality of the law independently contributes to people's perception of the law's legitimacy which in turn shapes their

compliance behaviors. However, formal legal procedures are not widely-respected in China, even within the judiciary (Fu and Cullen 2011). Lay Chinese people hardly make clear distinctions between formal and substantive aspects of the law (Michelson and Read 2011).²¹ Meanwhile, protection of individual rights has not been a central piece of legal philosophies throughout Chinese history (Head 2009). As documented by previous legal studies of local courts in China, “practical meanings of the legal institutions are socially constructed in the judicial practice to reconcile the conflicts between global and local sources of legitimacy” (Liu 2006:75). Therefore, the current project does not distinguish between formal and substantive legitimacies and leaves it for the research subjects (in this case ordinary Chinese people) to decide what social values are embedded in the law.²²

21 During the study-design phase of the current project, the author also conducted a number of trial surveys with colleagues and friends, most of whom are highly educated and more exposed to foreign legal cultures than an average Chinese person. All of these survey takers were confused and annoyed by questions designed to distinguish the fairness of the procedures and the justice of the outcome of a legal process. The local professional collaborators also advised against including such questions, citing the possibility of agitating and losing potential respondents as justification and indicating that they did not find the distinction meaningful.

22 The social basis of legitimacy is not a set of homogenous or static values. It varies spatially and temporally (Weber 1978). Development of formal legal rationality and rights discourses is closely associated with the rise of modern capitalism in continental European countries and is not necessarily applicable in other social or historical context (Trubek 1972). In the context of contemporary China, a land with its own unique historical and cultural heritages and far removed from western capitalist civilizations, there is no ground to assume either the formality of law or discourse around individual rights as the basis for law’s legitimacy.

To assess how people's memories of the past are associated with their evaluation of current laws' legitimacy, I conducted statistical analyses with the *perceived level of law's legitimacy* as the dependent variable, using Ordinal Logistic Regression (OLR) models and controlling for demographic variables. The OLR model is suited for analyzing data with ordinal categorical dependent variables (Agresti 2002). The model is as follows,

$$\begin{aligned} \text{logit}[\text{Pr}(\text{Legitimacy score}_i \leq j|x)] \\ = \alpha_j + \beta_1 \text{memory of certain event} + \beta_2 \text{age} + \beta_3 \text{gender} \\ + \beta_4 \text{enducaiton} + \beta_5 \text{party membership} \\ + \beta_6 \text{household expenditure,} \quad j = 1, 2, \dots, J - 1 \end{aligned}$$

$\text{logit}[\text{Pr}(\text{Legitimacy score}_i \leq j|x)]$ is called the cumulative logit of category j , and is defined as the log function of the odds of legal compliance score being less than or equal to j against it being larger than j .

A model for $\text{logit} [\text{Pr}(Y \leq j)]$ alone is an ordinary logit model for a binary response in which categories 1 to j form one outcome and categories $j+1$ to J form the second. The model described above simultaneously uses all the cumulative logits. Each cumulative logit has its own intercept, α_j . The α_j 's are increasing in j , since $\text{Pr}(Y \leq j|x)$ increases in j for fixed x , and the logit is an increasing function of this probability. The β 's are the coefficients of the independent variables. e^β is the exponential increase in the odds of making response $\leq j$, with one-unit increase in the independent variable and it is constant across all logits. In other words, one need not

know the specific values of α'_j 's in order to interpret the effects of the independent variables.

The following sections elaborate findings from the statistical analysis of the survey data and answer questions regarding the patterns of collective memories in contemporary Chinese urban setting and connect these memories to the perceptions of laws among ordinary Chinese people.

What/who are remembered?

Table 3.2 presents the list of the most frequently mentioned historical events throughout Chinese history. More than eighty percent of respondents referred to one of the eight events as being the most important one throughout Chinese history. Most of these events are from recent or current historical periods. The subsequent section briefly describes these events in temporal order. As discussed previously, I am not trying to reconstruct an accurate and authentic history of China or objective recount of these events. Instead, I rely mostly on sources that are likely available to ordinary Chinese people so as to provide possible interpretations from their perspectives.

Table 3.2: Distribution of Most Frequently Mentioned Historical Events/Changes

Event/Change	Time	N	%
Anti-Japan War	1937-1945	98	20.2 ²³
Opium war	1840-1842	61	12.6
Xinhai Revolution	1911	58	11.9
Reform and Opening	1978-?	49	10.1

23 The percentages are based on number of people who gave a valid answer to the survey question.

Establishment of PRC	1949	38	7.8
Cultural Revolution	1966-1976	36	7.4
May 4th Movement	1919	32	6.6
The War of Liberation	1946-1950	28	5.8
Total		428	82.4

The Opium War, reported by almost thirteen percent of the respondents as the most important historical event in Chinese history, usually denotes the First Opium war (1840-1842) fought between the Qing Dynasty and Great Britain. Prior to the war, China enjoyed a large trade surplus against Britain due to the high demand of Chinese goods in Europe and the Qing government's tight control over international trade. The war was allegedly caused by British traders' attempt to fix the trading imbalance by exporting opium to China which not only reversed the trade imbalance to Britain's favor but caused enough social problems to worry the Qing government. The war was triggered by the anti-Opium campaign launched by Lin Zexu, the Commissioner of Canton port, in 1839 when he forced the British Superintendent of Trade to turn in a large amount of Opium and promise not to export opium to China. The war ended in 1842 with the signing of the "Treaty of Nanking" which mandated the Qing government to pay an indemnity to Britain, open four ports to Britain, and cede Hong Kong to Queen Victoria. In a supplementary treaty, Qing gave Britain the most favored nation treatment. A series of treaties followed giving other foreign countries similar privileges and access to China's market.

Many see this war as the starting point of recent Chinese history and China's fall as a powerful empire. For the first time in history, China had to adjust its own legal system to accommodate the demands of other nations. It also compromised the judicial

power of the Qing government by giving the colonizing powers consular jurisdiction over their citizens in China. In the decades following the Opium War, the Qing government attempted various modernization reforms, including the famous (and yet unsuccessful) “Hundred Days Reform” in 1898 modeled after the Meiji Reform in Japan and aimed at transforming China into a constitutional monarchy. In 1908, three years before Qing Dynasty was overturned by the Xinhai Revolution, Emperor Guangxu announced the first constitutional document in Chinese history.

The opium is not celebrated by any national holiday or public ceremony. In Chinese history textbooks, a lot of emphasis is put on the heroic charisma of Lin Zexu as an anti-opium fighter and the incompetence of the Qing government.

The Xinhai Revolution (1911), remember by twelve percent of the respondents, was known to be the Bourgeois revolution led by a group of intellectuals (among whom Sun Yat-sen was the most famous) that overturned the last imperial dynasty in China (Qing) and established the first Republic in Chinese history. It consisted of a series of revolts and uprisings throughout China against the Qing government for its corruption and ineffectiveness in resisting foreign powers’ intrusion. The revolution climaxed on October 10th 1911 with the successful uprising in Wuchang that encouraged and facilitated the victories of the revolutionary forces in other parts of China. A number of provinces declared independence from Qing and the Republic of China was established on January 1st, 1912. Sun Yat-sen was elected the temporary President. The revolutions finally achieved a cease-fire agreement between the Qing military leader Yuan Shikai and the revolutionary armies and forced the last Qing Emperor, Fuyi, to relinquish his power. The organization known to have organized and led the revolution, Tongmenhui

(United League), was the predecessor of “Kuomintang (KMT)”. Yuan Shikai succeeded Sun as the President of the Republic in 1913 as a compromise by the revolutionary force to secure his support. Before transferring the presidency to Yuan, Sun and the parliament allegedly passed the “Provisional Constitution of the Republic of China” to set up a parliamentary system as a constraint on Yuan’s power. This is considered the first bourgeoisie constitution in Chinese history.

Figure 3.1: Railroad Protection Movements Monument in People’s Park, Chengdu



Both the KMT government that later invaded Taiwan and the Chinese Communist Party (CCP) claim to have inherited legacy from the Xinhai Revolution. Chinese history books place a fair amount of emphasis on this event—the latest version

of the official history text book²⁴ by the People's Educational Press allocates an entire chapter on the various aspects of the revolution. However, the revolution is not celebrated officially as a national holiday in contrast to Taiwan, where October 10th is celebrated as the National Day.

Chengdu is closely tied to the Xinhai Revolution as the Wuchang Uprising resulted from the Qing government's mishandling of the Railroad Protection Movements in the southern and central China provinces. Sichuan witnessed the most intensified Railroad Protection Movements and declared independence from the Qing government soon after the Wuchang Uprising. In the People's Park in downtown Chengdu, a major gathering spot of Chengdu people, stands a monument of the Railroad Protection Movements (Figure 3.1).

May 4th Movement (1919), mentioned by about seven percent of the respondents, was the marking event of a wider cultural and political movement (the New Culture Movement) during late 1910s and early 1920s led by radical intellectuals. "Democracy" and "Science" were the two slogans motivating the movements. A number

24 China has gone through different models of text book assignment for middle and high schools. Right after PRC was established, the Ministries of Education and the Administration of Press and Publication jointly established the People's Educational Press and charged it with the sole responsibility and authority to compile text books for public schools (which make up the vast majority of schools in China). Since late 1950s, there have been several (unsuccessful) attempts to distribute the responsibilities and authorities to local governments. The most recent educational reform happen in early 2001 where the Ministry of Education decided that certified private organizations can also compile text books and a board made up with experts and teachers at the municipal level should decide which version of text book to use within the municipality. However, the reform was within the bigger context that the Ministry of Education still controlled the contents on the entrance exams to college, which dedicate what is taught in schools. Also, since 2011, the central government has argued that the 2001 reform caused confusion and instability in the text book market and thus initiated another round of reform to re-centralize the production of text books.

of foundering figures of CCP were active participants of the movements. The May 4th event itself was a march led by college students in Beijing which induced violent confrontations and strikes in 1919. The march was a response to the end-of-WWI negotiation and the signing of the Treaty of Versailles. The treaty, instead of having the defeated Germany relinquish its privileges in its “leased” territory in Shandong, China, stated that Japan should take over those privileges. The students were angered by the international community and the Chinese government, believing that they sold out the interests of China. Ordinary citizens from other social groups such as workers and small merchants also participated in the event.

The May 4th Event is now celebrated as a national holiday in China and framed as part of the neo-democratic revolution led by the CCP. Some sources (Chien 2008) indicate that both the ROC government and social movements in Taiwan after 1949 also claimed the May 4th movement and the broader New Culture Movement as part of their ideological heritage.

The Anti-Japan War (1937-1945), mentioned by more than twenty percent of the respondents and ranked first on the list, is known internationally as the second Sino-Japan war and the major front of the WWII in East Asia after the Pearl Harbor event in 1941.

Many see the war as an intensification of Japan’s decades-long efforts to colonize (parts of) China started late in 19th century. Before the 1930s, such efforts were mostly realized through treaties and “leases” of Chinese territories (through military attacks or threats). The war was fought in the context of a politically and militarily divided Republic of China (ROC)—the nominal government led by the Kuomintang (KMT) was in constant

conflict and negotiation with relatively independent local military powers and was starting to feel the threat of the newly formed Chinese Communist Party (CCP). During the war, most military powers, including armies led by CCP, swore loyalty to the KMT government which was relocated to Chongqing after its Capital city, Nanking, was taken over by Japanese armies in December 1937. The war ended with a “victory” for ROC in September 1945 when the Emperor of Japan surrendered to the Ally Forces. It had claimed at least 35 million Chinese and eight million Japanese casualties (Lary and MacKinnon 2001). China won a permanent seat in the UN Security Council for its contribution in defeating Japan in WWII.

In China, narratives of the war describe it as the climax of century-long nationalist movements against foreign powers and restored China its full independence. KMT armies fought most battles in the war and suffered the majority of the casualties.

However, the KMT regime was overturned in 1949 after a full-scale civil war with the CCP armies and fled to Taiwan. The ROC was replaced by the People’s Republic of China (in mainland China in 1949 and in the UN Security Council in 1971). In most Chinese high school text books, the role of CCP is much more salient than that of the KMT.

The War of Liberation (1946-1950) (internationally referred to as the Second Chinese Civil War), mentioned by slightly less than six percent of the respondent, was the final stage of a decades-long military conflict between the KMT-led Republic forces and the CCP armies started in the 1920s. Many believe in addition to the ideological split between the leftist-communists and the conservative nationalists, the war also was precipitated by the rivalry between the USSR and the U.S. in the post-WWII era (O. A.

Westad 1993). The war ended in 1950 when most major battles ceased while in 1949, Chiang Kai-Shek and two million nationalist Chinese had retreated to Taiwan. Mao Zedong announced the establishment of a CCP-led Chinese government, the People's Republic of China (PRC) on October 1st, 1949. According to PRC historiography, the war claimed more than 1 million casualties for the CCP armies and more than 10 million nationalist fighters were killed, captivated, or absorbed by the CCP armies.

Intense debates surround the cause, process and implication of the war. First and foremost, the name of the war is a subject of contestation. Referred to as “the War of Liberation” in mainland China and Communist historiography, it is depicted by the official narratives as the CCP's heroic struggle to save the nation from a corrupted capitalist government. In contrast, the Republic government considered the CCP a rebellious force and saw the war as a legitimate state instrument to put down a rebellion. Historical accounts indicate that both parties' strategies have led to significant civilian casualties (Westad 2003). In mainland China, both the establishment of the Liberation Army and the victory of the war are celebrated publicly. The Army Foundation (August 1st) was not a national holiday but there is usually a ceremony on the national TV station. The war is celebrated along with the establishment of the PRC on October 1st, the national day of PRC. In this chapter, I used the term adopted by the respondents—the War of Liberation instead of the civil war to preserve the political implication of their answers.

The establishment of PRC (October 1st, 1949), mentioned by slightly less than eight percent of the respondents, was marked by a speech given by Mao Zedong at the Tian'an Men Square, declaring “the people of China have risen again”. The official

narratives in mainland China glorify this event as the moment at which China finally won its independence from the imperialist powers and started to rise as a great nation, despite the very tight connection between the USSR and the PRC at that time. October 1st is now the National Day of the PRC and is nationally celebrated. A brief economic boom ensured the establishment of the PRC as the nation recovered from the loss of wars and the government focused on restructuring the economy. After the new nation was established, the People's Congress passed a series of legal statutes, including the first Constitution of the PRC. Many of these laws were either revoked or ignored during the upheavals of the Cultural Revolution.

The Cultural Revolution (1966-1976), remembered by more than seven percent of the respondents, was a political campaign launched by Mao Zedong. The stated goal of the campaign was to “redress the revisionist and bourgeoisie tendencies” in the party, while most historians believe that Mao meant to purge political dissents. It evolved into violent “class struggles” executed for the most part by Red Guard groups.²⁵ Many, mostly intellectuals of all ranks, were persecuted through torture, public humiliation, arbitrary imprisonment, and even murder. A lot of properties were seized and/or destroyed. The movements also influenced top party leaders including Liu Shaoqi, the President of PRC then, and Deng Xiaoping. Starting 1968, when the fractional conflict among Red Guard groups became rampant and violence in the urban areas started to get out of control, Mao initiated the “Down to the Countryside” movement in which millions of “intellectual youths” were shipped into rural China to be “reeducated.” The

25 Red Guard groups are paramilitary youth groups mostly made up of college and high school students.

specific number of people persecuted and displaced during the upheavals cannot be accurately estimated as the Chinese government is not willing to release official statistics (many cases were probably never recorded). It is safe to state that millions of lives were influenced. The ending point of the movement is an issue of debate. Many historians consider it to have ended effectively when Mao died in 1976. A month after Mao's death, "the Gang of Four", the political faction trusted by Mao and controlled political power in the later stage of the Cultural Revolution was arrested. The downfall of this group was considered also to be a marker of the ending of the political turmoil. Therefore, in this chapter, I categorized responses regarding their fall as memory of the Cultural Revolution. The "Gang of Four" was officially blamed for the destruction of Cultural Revolution.

This decade is considered by many China scholars to be the most turbulent and traumatic period in Chinese history since the establishment of the PRC. It destroyed the productive forces and social institutions built during the two decades after the country's establishment (Zhonghua Renmin Gongheguo Shi 2008). The entire legal system was also destroyed as the social movements rely almost solely on the orders by political leaders. The People's Congress redrafted a completely new Constitution in 1982, six years after the death of Mao and the end of the Revolution.

The Reform and Opening (1978-?), considered by ten percent of the respondents as most important, is a series of reforms installed by reformists within the CCP led by Deng Xiaoping and continued by his successors. The slogan is to develop "socialism with Chinese characteristics". The core of reform is to shift from a state-planned economy to socialist market economy and to integrate into the global market.

The specific strategies included decollectivizing agricultural production, allowing private capital into the market, privatization of non-essential industries, opening up coastal cities as trading ports, and actively seeking to participate in international political and economic organizations such as the UN, WTO, APEC, etc. Many argue that this is actually the neoliberal turn of China's economy (Harvey 2003). The reforms have brought profound changes into China's social life. China is now the second largest economic entity in the world. Average disposable annual income per capita in urban China rose from around 60 USD in late 70s to about 4,000 USD in 2012 (All China Data Center 2014).²⁶Cities like Beijing and Shanghai (and even Chengdu) are increasingly becoming similar to any other global cities with skyscrapers, traffic jams, high-scale shopping malls and restaurants, as well as basement rooms full of immigrant workers and other young people seeking to realize their lucrative dreams. Extreme inequality and serious environmental degradation are among the deepest concerns brought about by the reforms.

Meanwhile, as the Chinese economy essentially adopted capitalism, in the political realm, China still maintained its “democratic authoritarianism by the people” which guarantees the absolute authority of the CCP.

Table 3.3 and Table 3.4 present the most frequently mentioned political leaders and thinkers throughout Chinese history by the survey respondents. The four most frequently mentioned political leaders' life spans overlap significantly with the

²⁶ These numbers does not take into account the factor of inflation and thus exaggerates the economic growth in China. Another more complex measure, the Per Capita Annual Disposable Income Index(%), indicates that at year 2012, Chinese urban citizens have 12 times more disposable income than when they did in 1978.

historical periods during which the eight most-mentioned events happened. As a matter of fact, all of the four political leaders were the key participants of some of the events. **Sun Yat-Sen**, widely considered as the “father of the Republic”, was one of the most well-known leaders of the United League, the organization behind the bourgeoisie revolution in the early 20th century. **Mao Zedong, Zhou Enlai, and Deng Xiaoping** are all prominent leaders of the communist movements and civil war against the KMT armies throughout the 20th century. Mao and Zhou also participated in the bourgeoisie movements as young students in their early years. Deng, who was slightly younger than Mao and Zhou, is considered the core of the CCP power after Mao’s death and the key engineer of the Reform and Opening. In contrast, almost forty percent of the respondents consider **Confucius**, the presumed founder of the most popular philosophical school in China, as the greatest thinker in Chinese history even though the other three of the four most frequently mentioned great thinkers overlap with the most popular political leaders.²⁷

The above findings indicate that there are noticeable patterns of Chinese people’s memories of the past. Among all the historical events and figures scattered throughout thousands of years of history, eight historical events and five historical figures would capture more than eighty percent of the respondents’ definition of what

²⁷Sun Yat-Sen, the fourth person on the list of greatest political leaders and the icon of the bourgeoisie revolution, ranked seventh on the list of great thinkers. The fifth and sixth are respectively Lao-Tzu (popularly understood to be the founder of Tao-ism) and Lu Xun (a radical non-partisan writer who was a key figure in the New Culture Movement).

is important. Such patterns speaks to the social original of memories—individuals do not develop idiosyncratic visions of the past but rather remember as groups.

Table 3.3: Distribution of Most Frequently Mentioned Political Leaders

Name	Time	N	%
Mao	1893-1976	314	61.2
Deng	1904-1997	103	20.1
Zhou Enlai	1898-1975	28	5.5
Sun Yat-Sen	1866-1925	24	4.7
Total			91.5

Table 3.4: Distribution of Most Frequently Mentioned Thinkers

Name	Time	N	%
Confucius	551–479 BC	176	38.1
Mao	1893-1976	123	26.6
Zhou Enlai	1898-1976	45	9.7
Deng	1904-1997	36	7.8
Total			82.2

However, these findings also suggest that patterns of individual memories do not always coincide with official historical narratives. The distribution of memorable events and figures across historical periods varied depending on the issue at question. For historical events and political leaders, the respondents tend to focus on the recent or contemporary times, including the Republic era. In particular, almost half of the respondents identified event/change in the Republic era as being most important (Figure 3.2).²⁸ This pattern contradicts Hypothesis 1 which predicts that, consistent to

²⁸ I further divided the “Communist era” in “Maoist era” (1949-1976) and “contemporary era” (post 1976). It should be noted again that such beginning and ending points are relatively arbitrary and cannot reflect the continuity and non-linear nature of history.

patterns of national commemoration, there will be lack of memories of the Republican era among individual Chinese people. Indeed, it is the memory of the ancient China that is missing. This discrepancy between individual and official memories highlights the fluidity of mnemonic patterns, the focus of the next section. In addition to temporal distance which might leads to unfamiliarity and assumed irrelevance, the absence of reference to the Imperial history despite the significant amount of public commemoration may be due to the lack of specificity in the public celebration—none but one of the four national holidays is associated with a specific event or figure—and the low density of historical narrative—with thousands of years lumped together under the same category,²⁹ the chances of any specific period standing out becomes low.

Meanwhile, the disproportionate attention received by the Republic era can be partially attributed to ambiguity and non-linearity of historical accounts—the timing of an event is not a definite mark of the cultural implication and significance of such event. Figure 3 lays out the potential cultural meaning contained in the events. I constructed these cultural categories based on both the respondents’ expressed reason for considering certain event as important and scholarly writings on the historical significance of such events. For example, most respondents who mentioned either the

²⁹ The development of these categories was not arbitrary. I based them on popular and scholarly understandings of China’s history. This finding indicates that these categories are consequential.

anti-Japanese war or the Opium war mentioned the importance of those events to the identity of the “Chinese nation”, and these events are thus labeled as a sign of nationalism.³⁰ However, most respondents did not provide reasons that clearly signal cultural meanings. For example, a considerable number of respondents gave reasons such as “the event fundamentally changes the trajectory of Chinese history”.

Therefore, for events where few respondents explicate their cultural meanings, I relied on historians’ interpretation of the events. As shown in the two figures, even though almost half of the important historical events mentioned by the respondents happened during the republic era, only twenty percent of them are primarily associated with the Enlightenment-driven values promoted by the bourgeoisie movements. Similarly, only eight percent of the events imply some connection to the traditional Chinese cultural and political system while around 21% events technically happened during the imperial era. There are two main reasons for this mismatch between the timing of the events and their historical significance. First, the cutting points of historical eras mask the close connections between the neighboring eras. For instance, even though the communist party did not establish an official regime until 1949, a lot of the events significant to the communist movements and the development of Maoism happened before that year, which was technically counted as the republic era. Second, some

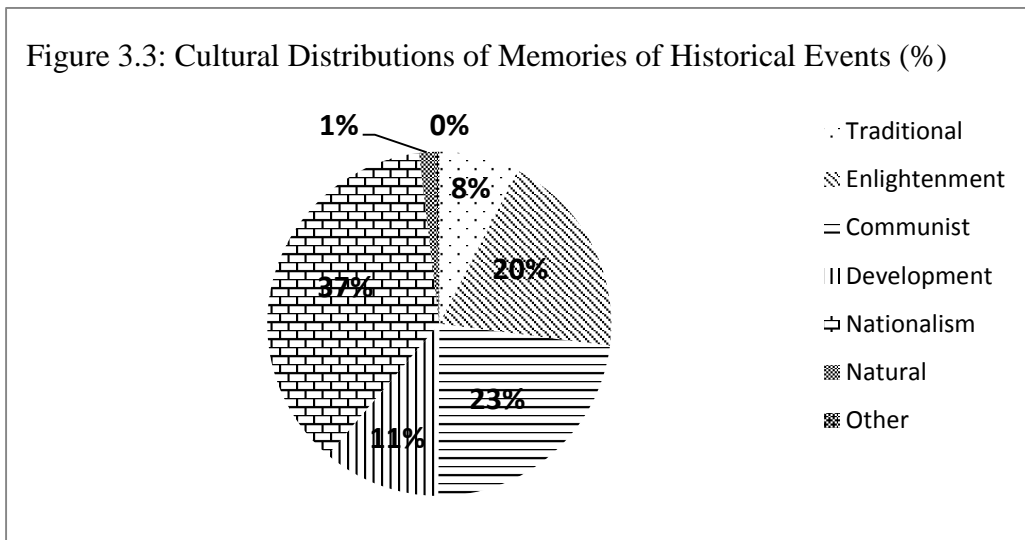
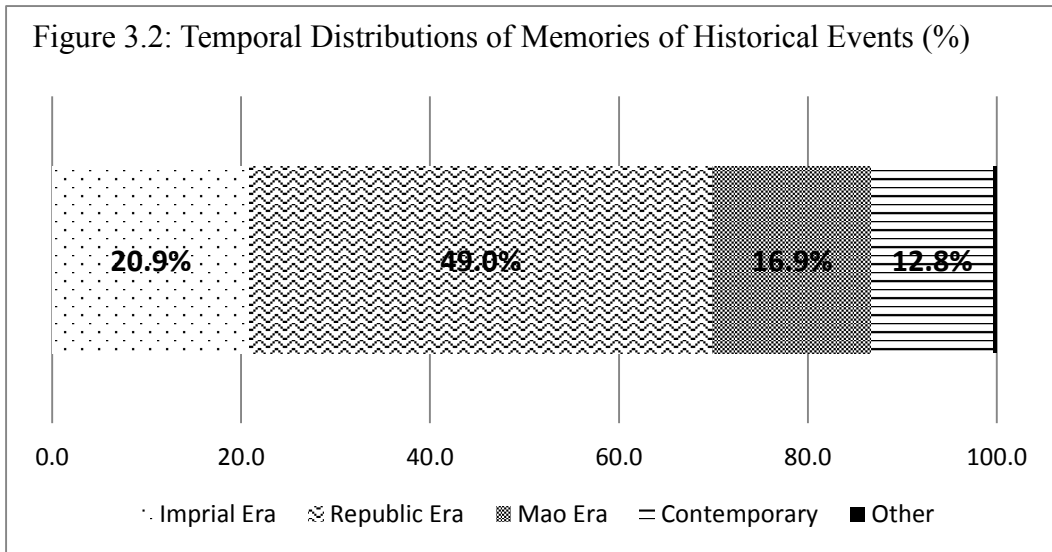
30 The categorization is based on events instead of respondents. In other words, even though not all respondents mentioning the same event gave the same reason, their responses are still coded to be in the same cultural category based on the majority’s reasoning for or the most popular scholarly interpretation of the event.

events and their cultural message, such as wars with foreign powers and the construction of national identity, are not specific to certain era.

Finally, the status of Confucius as a historical figure also deserves elaboration. Far exceeding other candidates and mentioned by almost 40% of the respondents as the greatest thinker in Chinese history, Confucius without doubt occupies an outstanding place in the consciousness of ordinary Chinese people. The overwhelming identification with this figure seems to confirm the observation that Confucian tradition “remains the defining characteristics of Chinese mentality”(Tu 1990: 136). However, the limitation of the reference to Confucius’s significance only in the realm of philosophical thinking suggests that Chinese people, at least at the conscious level, do not attribute political connotation to Confucian thinking. Meanwhile, scholars have constantly documented the significance (Zhao 2004) and relative stableness (T. Zhang and Schwartz 1997) of Confucian ideals in China even through the most radical and violent political turmoil. Therefore, this finding raises further questions regarding the relationship people’s cultural and political identities.

Who remembers what?

To examine how memories of the past vary across different social groups, I first created dichotomous variables to indicate whether a respondent referred to one of the historical events and figures mentioned by at least five percent of all respondents. I then conducted logistic regressions with these dummies as dependent variables and the socio-demographic characteristics of the respondents as the independent variables.



Tables 3.5 through 3.7 present the results of these logistic regressions predicting the odds of remembrance of each of the most frequently historical events/changes and figures.

Table 3.5: Results of Logistic Regression on Odds of Remembering Historical Events/Changes

	Anti-Japan War	Opium war	Xinhai Revolution	Open & Reform	PRC Founding	Cultural Revolution	May 4th	Liberation War
Predictor	β (e^β)	β (e^β)	β (e^β)	β (e^β)	β (e^β)	β (e^β)	β (e^β)	β (e^β)
female	0.195 (1.215)	-0.152 (0.859)	-0.288 (0.749)	0.632 (1.881)	-0.567 (0.567)	0.215 (1.240)	-0.027 (0.973)	-0.103 (0.902)
age	-0.001 (0.999)	-0.017 (0.983)	-0.004 (0.996)	0.015 (1.015)	0.039 ** (1.040)	0.033 * (1.033)	0.008 (1.008)	-0.011 (0.989)
Education (years)	-0.014 (0.986)	-0.006 (0.994)	0.123 * (1.131)	0.047 (1.048)	-0.008 (0.992)	-0.058 (0.944)	0.055 (1.057)	-0.072 (0.930)
Party membership	0.047 (1.049)	-0.038 (0.962)	-0.059 (0.942)	0.26 (1.297)	-0.562 (0.570)	-0.438 (0.645)	-0.203 (0.816)	-0.271 (0.763)
HH expenditure	-0.010 (0.990)	-0.043 (0.957)	-0.062 (0.940)	0.025 (1.026)	0.039 (1.039)	0.013 (1.013)	0.011 (1.001)	-0.055 (0.947)
Constant	-1.452	-1.032	-3.062 ***	-4.159 *	-4.189 *	-3.723 **	-3.816 **	-1.279

* p<0.05, **p<0.01, ***p<0.001

Table 3.6: Results of Logistic Regression on Odds of Remembering Political leaders

	Mao Zedong	Deng Xiaoping	Zhou Enlai	Sun Yat-Sen
Predictor	β (e^β)	β (e^β)	β (e^β)	β (e^β)
female	0.084 (1.088)	-0.35 (0.705)	0.494 (1.639)	0.331 (1.392)
age	0.021 ** (1.021)	-0.027 ** (0.973)	-0.03 (0.970)	0.041 * (1.042)
Years of education	-0.121 *** (0.886)	0.126 ** (1.134)	-0.045 (0.956)	0.15 (1.162)
Party membership	0.323 (1.381)	-0.29 (0.748)	0.331 (1.392)	-0.101 (0.904)
Household expenditure	-0.031 (0.969)	-0.009 (0.991)	0.025 (1.025)	0.068 * (1.070)
Constant	0.745	-1.575	-1.645	-7.337

* p<0.05, **p<0.01, ***p<0.001

Table 3.7: Results of Logistic Regression on Odds of Remembering Great Thinkers

	Confucius	Mao Zedong	Deng Xiaoping	Zhou Enlai	Sun Yat-Sen
Predictor	β (e^β)	β (e^β)	β (e^β)	β (e^β)	β (e^β)
female	-.094 (0.910)	-.077 (0.926)	-.390 (0.677)	.521 (1.684)	-.063 (0.939)
age	.004 (1.004)	.016 (1.016)	-.017 (0.983)	.037 ** (0.964)	.002 (1.002)
Years of education	0.039 (1.040)	.002 (1.002)	-.075 (0.928)	-.011 (0.989)	-.033 (0.968)
Party membership	.230 (1.259)	.113 (1.120)	-.121 (0.886)	.045 (1.046)	-17.878 (0.000)
HH expenditure	.036 (1.037)	-.053 (0.948)	-.022 (0.978)	-.021 (0.979)	.091 * (0.913)
Constant	-1.566 *	-1.816 **	-.674	-4.389 ***	-3.425

* p<0.05, **p<0.01, ***p<0.001

Hypothesis 3.2A, which predicts that people of higher SES are more likely to remember events/figures from the Republican era, is mostly supported. Table 3.5 indicates that while the chances of remembering most of the important historical events are evenly distributed across different gender, education, age, income and political groups, more educated people are more likely to remember the Xinhai Revolution, the event marking the success of the bourgeoisie revolution and the start of the Republic era. Table 3.6 shows that both higher levels of education and higher family expenditure levels are significantly associated with higher odds of naming Sun Yat-Sen, the most well-known leader of the Xinhai Revolution and the icon of the Republic era, as the greatest political leader throughout Chinese history. In addition, people with higher family expenditure are also more likely to consider Sun as the greatest thinker of all times (Table 3.7).³¹ The aforementioned evidence lends strong support to the hypothesis that people with higher SES are more likely to identify with bourgeoisie ideas and values, including the events and figures in Chinese history that symbolize such ideals and values.³² However, the picture gets more complicated when

31 I included Sun Yat-Sen in the analyses for both great political leaders and thinkers as tests for the hypothesis even though only 14 respondents mentioned him for the latter. The results of the latter analysis should thus be treated with caution due to the small case number. Some of the coefficients in that model do have large standard errors, suggesting the instability of the model.

32 In addition, with China's reintegration into the world economic system after Mao's death, more opportunities have opened up for Chinese citizens to get in contact with Western cultures that promote the ideal of middle class (in contrast to the communist ideology that had dominated during the Cultural Revolution). People with more education and economic

we look at the memories of the May 4th Event. As the marking event of a highly intellectual cultural movement, the May 4th Event highly mobilized such Enlightenment-derived ideals as democracy and scientific rationality. Therefore, it is reasonable to expect that people with higher SES to also be more likely to mention this event as important and yet neither level of education or family expenditure is significantly related to the memory of this event. One possible explanation could be found in how this event is constructed through educational system and public commemoration in mainland China. In the official high school history text book, the May 4th is described as “part of the global proletarian revolution” and the moment “when the working class in China entered the stage of history,...facilitating the dissemination of Marxist ideas in China and laying foundation for the Chinese Communist Party” (Recent and Contemporary Chinese History: 115). The celebration of the movement was institutionalized in 1939 by the Communist Party leadership in communist-occupied regions and became a national event only after the CCP armies won the civil war. It should not be surprising that the narrative of the national commemoration of this event resonate a lot with the history text book and contribute most of its significance to the development of communism and proletarian struggle in China. Therefore, it appears that not only does people’s social status matters for their

resources are more likely to interact closely with such relatively new ideas either through studying overseas or business collaboration with foreign partners.

memories of the past, such memories also interact with how the past is institutionalized.

Hypothesis 3.2B finds no support. The members of the communist parties are not more likely to remember either events or figures associated with the Maoist era or communist movements. This could suggest that the party membership, while remaining important political capital, does not carry the same ideological significance as it used to.

Finally, Hypothesis 3.3 regarding the importance of personal experience in forming memories of the past bears out partially. Five of the eight most frequently mentioned historical events happened before the oldest of the respondents was born; one of them (Reform and Opening) is still ongoing and is thus experienced by all respondents; and two events (the establishment of the PRC and the Cultural Revolution) were experienced by a sub-sample of the respondents. Age seems not to matter for the memories of the first two categories of events—past events that were not experienced by any age group or on-going event that are being experienced by all age groups. In contrast, for memories of the third kind of events—events that were experienced by some but not all age groups—it plays a significant role. Older people appear to be more likely to remember both the establishment of the PRC and the Cultural Revolution. This is consistent with Mannheim's (1952) generational theory which suggests that personal experience plays an important part in the formation of collective memories and age, as an indicator of cohort, marks such shared

experiences. I also tested if people of formative age during the Cultural Revolution indeed tend to have deeper impression of the event and found no such pattern with various age cutting points.³³ Such finding seems to somewhat diverge from, if not contradict, Mannheim and some empirical research in collective memories on cohorts (Schuman and Scott 1989). One possible explanation for such patterns is that the Cultural Revolution was targeted at party cadres who had already cumulated certain amount of political capital and were mostly middle-aged men and women. Even though the youths of that age were also deeply impacted by the disruption of the educational system and the “down to the countryside” movement, it is the lives of these adults that were turned upside-down. In other words, the generation that was most impacted by the Cultural Revolution would have been fairly old by the time when my survey was conducted and they were more likely to remember that period. This explanation suggests that even personal experiences matters for memories not only at the level of when one experiences certain [dramatic] changes but also how they experience these changes.

Memories and Legal Ideas: From Past to Present

Finally, this chapter links the respondents reported memories of the past to their attitudes toward the current laws, examining the implication of the particular

³³ I was not able to test the theory using the establishment of PRC because it happened when the oldest respondent in my sample was still fairly young.

cultural and historical conditions of contemporary China to the formation of legal consciousness today.

Figure 3.4 reports the distribution of the dependent variables, namely the perceived legitimacy of different types of laws. Family laws are by far the most legitimate legal rules—more than 90% of respondent consider disobeying either of the chosen legal provisions a violation to core social values (Figure 3.4a&b). Least legitimate appear to be laws that prohibit downloading pirated materials (Figure 3.4f). Only slightly more than half of the respondents think that breaking such laws somewhat violates core social values. Meanwhile, theft laws, albeit in the same category, are perceived by more respondents to be legitimate than state-citizen relationship laws, particularly family planning laws. Public economic laws are again in the middle of the spectrum, with slightly more than 80% of respondents perceiving either kind of laws within this category to be legitimate (Figure 3.4g&2h). These results suggest that there is considerable variation in the perceived legitimacy cross different types of laws regarding, opening the question of what factors might contribute to such variation.

Tables 3.8 through 3.10 present the results of ordered logistic regressions with the legitimacy of law as dependent variable. In each model, only one memory dummy was included as independent variable along with other controlling variables (i.e. the

tables summarize the results of 80 models).³⁴ Starting with the models with the overall legitimacy score as dependent variables, it appears that people who rank the Anti-Japanese War, the Cultural Revolution and Mao Zedong as of great historical importance tend to view current laws as more legitimate. Such findings are consistent with Hypothesis 3.4C. As all of the three events/figures are closely associated with the Maoist communist party,³⁵ it is reasonable to argue that people who consider them important are more likely to identify with the communist ideology and thus support the legal system based on such ideology. However, a closer look at the models regressing to the legitimacy of specific types of laws reveals a different picture.

34 For the purpose of brevity and clarity, Tables 8 through 10 only present effects of the memory dummy variables, meaning one effect from each model. The specifications and estimated effects of full models are available upon request.

35 As indicated previously, there exists heated debate over the trajectory of the Anti-Japanese war, particularly the respective contribution of the KMT and Communist Parties. Most non-Mainland-China-based scholars agree on the major role played by KMT armies in resisting the Japanese invasion. However, in the official narratives in Mainland China, the CCP is still framed as the leader of the resistance.

Figure 3.4: Distribution of Legitimacy of Law by Social Relations Regulated
 (How much does violation of the law also violate core social values?)

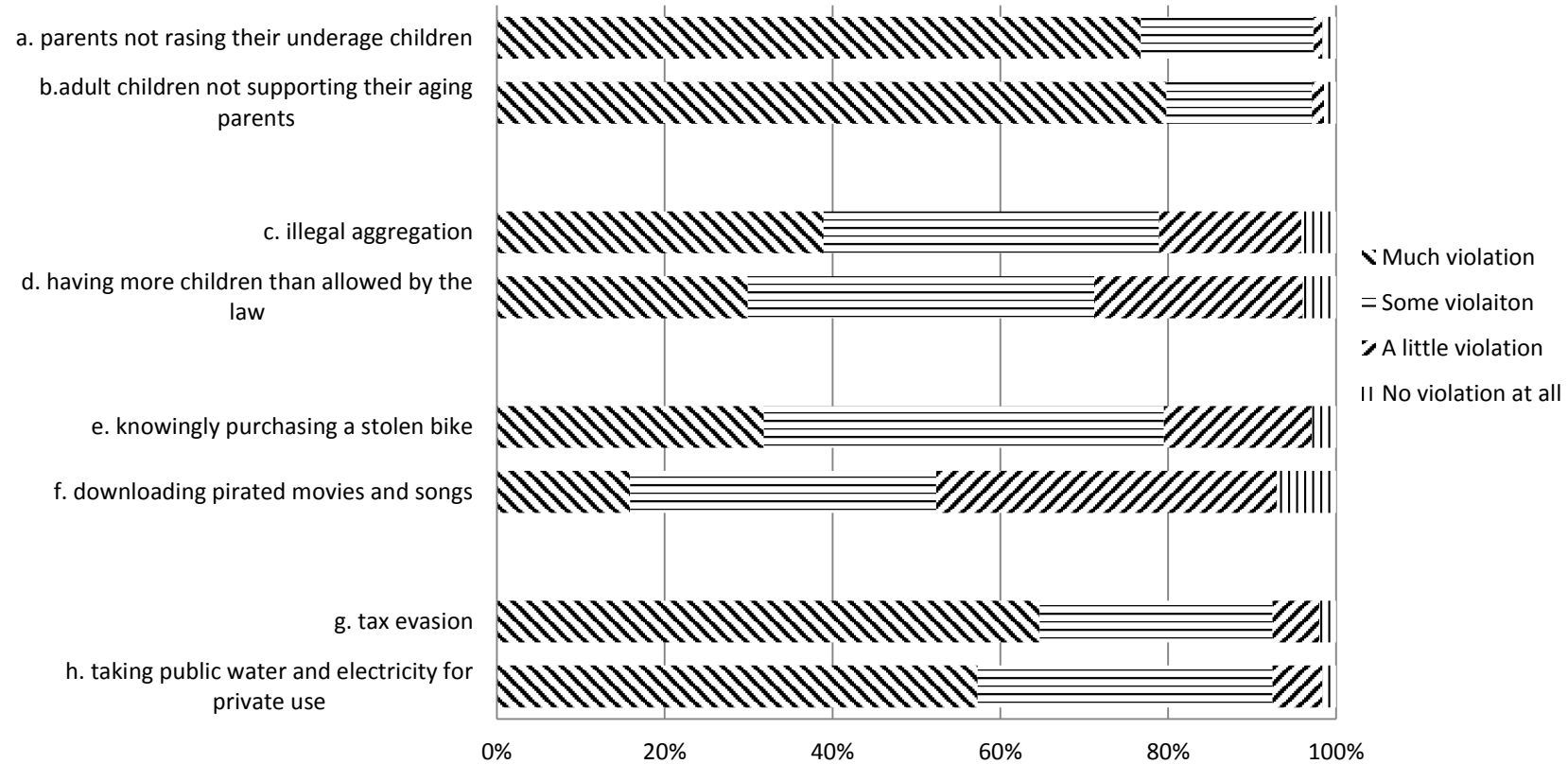


Table 3.8: Results of Ordered Logistic Regression on the Perceived Legitimacy of Law, effects of memories (events) ^a

	Model 3.8 Overall	Model 3.8A State-Citizen	Model 3.8B Family	Model 3.8C Private Economic	Model 3.8D Public Economic
Events					
Anti JP war	.416 *	0.606 **	0.251	0.066	0.233
opium war	-0.208	-0.343	-0.294	-0.191	-0.033
Xinhai Rev	-0.306	-0.406	-0.182	-0.008	-0.152
Opening and Reforming	-0.231	0.299	0.194	-0.046	0.062
establishment of PRC	-0.164	0.598	-0.383	-0.595	-0.226
cultural revolution	0.848 **	0.488	0.576	0.748 *	0.652
May 4th movement	0.126	0.089	0.059	0.025	0.175
Liberation war	0.025	0.088	0.355	0.007	0.286

a. All models controlled for sex, age, years of education, party membership and household expense

* p<0.05, **p<0.01, ***p<0.001

Table 3.9: Results of Ordered Logistic Regression on the Perceived Legitimacy of Law, effects of memories (political leaders) ^a

	Model 3.9 Overall	Model 3.9A State-Citizen	Model 3.9B Family	Model 3.9C Private Economic	Model 3.9D Public Economic
Figures					
Mao Zedong	0.296 **	0.586 ***	0.295	0.146	0.479
Deng Xiaoping	0.234	-0.325	-0.002	0.262	0.006
Zhou Enlai	-0.227	-0.202	-0.252	-0.297	-0.416
Sun Ya-Set	-0.068	-0.172	-0.53	0.329	0.12

a. All models controlled for sex, age, years of education, party membership and household expense

* p<0.05, **p<0.01, ***p<0.001

Table 3.10: Results of Ordered Logistic Regression on the Perceived Legitimacy of Law, effects of memories (thinkers) ^a

	Model 3.10 Overall	Model 3.10A State-Citizen	Model 3.10B Family	Model 3.10C Private Economic	Model 3.10D Public Economic
Figures					
Confucius	0.142	0.054	0.036	0.085	0.212
Mao Zedong	0.150	0.263	0.029	0.044	0.106
Deng Xiaoping	0.768 *	0.739 *	0.379	0.806	0.197
Zhou Enlai	-0.040	0.063	-0.622	-0.076	-0.004
Sun Ya-Set	-0.159	0.106	-0.034	-0.567	-0.835

a. All models controlled for sex, age, years of education, party membership and household expense

* p<0.05, **p<0.01, ***p<0.001

It appears that people who consider both the Anti-Japanese War and Mao Zedong as of historical significance tend to also positively perceive the laws that strengthen the control of the government over private and civic issues (Table 3.8 Model 3.8A and Table 3.9 Model 3.9A). This finding is still consistent with Hypothesis 3.4C. However, the positive association between people’s memories of the Cultural Revolution and their perceived legitimacy of law is mostly driven by their appreciation of the private economic laws, seemingly contradicting Hypothesis 3.4C.

To explore the unexpected correlation between the memories of the Cultural Revolution with the appreciation of private economic laws, I coded the reasons the respondents gave for thinking certain events as important into three categories: neutral, positive and negative. Example answers that are coded as positive include “good for people’s life”, “stimulated economic growth”, “makes China a great nation”, etc. Examples of negative answers include “it was a disaster”, “it was a mistake”, “many people suffered”, etc. Finally, examples of neutral answers include “it is very influential”, “it changed the trajectory of Chinese history”, “I heard a lot about it”, etc. When I was not sure whether the respondent gave a negative or positive answer, I coded it as neutral.

Table 3.11: Reasons for Remembering Historical Event/Change

Event	Neutral (%)	Positive (%)	Negative (%)	Total
Anti-Japan War	6 (7.2%)	76(91.6%)	1 (1.2%)	83
Opium War	20 (40.8%)	16 (32.7%)	13 (26.5%)	49
Xinhai Revolution	11 (22.9%)	37 (77.1%)	0 (0.0%)	48
Reform and Opening	6 (14.3%)	36 (85.7%)	0 (0.0%)	42
Establishment of PRC	2 (5.4%)	35 (94.6%)	0 (0.0%)	37

Cultural Revolution	7 (21.9%)	3 (9.4%)	22 (68.8%)	32
May 4th Movement	3 (10.7%)	25 (89.3%)	0	28
Liberation War	1 (4.0%)	24 (96.0%)	0	25

Table 3.11 presents the recoded reason for why people remember the top eight events, meaning whether they remember them for positive or negative reasons (the total numbers don't match because some people did not give a reason why they think a certain event/change was important). At least two patterns emerged out of this table.

1) Chinese people tend to (say that) they remember the past for positive reasons. Even for the Opium War, an event that many historians consider as marking the downturn of China's trajectory as a powerful nation (Mao 2005), more people found positive reasons to celebrate it than to remember it as a negative event.

2) The Cultural Revolution stands out as the only event that was remembered for negative reasons. Most respondent associated it with words such as "disaster" or "suffering". This finding suggests that experiential memory is different from cognitive memory. As discussed before, the Cultural Revolution is one of the only three frequently mentioned events that were experienced by some or all of the respondents. In contrast to the other two such events, the Establishment of the PRC and the Opening and Reform, which are less ambivalently considered victories or positive achievements of the CCP regime, the Cultural Revolution invokes much more controversy and debate. Therefore, the aforementioned patterns suggest how the perception of events that are learned from textbooks or other less personal sources might be different from perceptions of events experienced personally or learned through intimate stories told by close family members. It also suggests that the working mechanism of memories

can be both positive and negative. While positive memories may lead to appreciation of present institutions that reinforce the image of the past, negative memories can lead people to either reject present institutions closely tied to the past or embrace other ones that neutralize such a past. Therefore, people who remember the Cultural Revolution, which rejected any kind of market logic, now are more supportive of rules that reinforce the market logic.

Hypotheses 3.4A and 3.4B do not find any support. People's memories of the Republic era and Confucius do not seem to have any implication for whether and what types of laws they find legitimate. However, higher SES, which is positively associated with people's memories of the Republic era, has a relatively consistent negative effect on people's perception of the laws that strengthen state power. This finding suggest even though at times, there might not be a clear connection between collective memories and current legal ideas, these different components of individual consciousness and cultural identities can simultaneously be conditioned by the social contexts in which the consciousness resides.

Discussion and Conclusion

In this chapter, I examined the patterns of memories of the past among ordinary Chinese people. In so doing, I contributed to studies of collective memory and legal consciousness theoretically and empirically in various ways.

In addition to extending the theories of collective memory to China, an important society under-studies, the first significant and systematic contribution of

this chapter lies in the insights it provides on the connection/disconnection between collective memories as material forms and as individual consciousness. The small number of events and figures that capture the vast majority of the spontaneous recollections of the past by people from various social groups speaks to the foundational notion that “remembering” is not a random process but a systematic enterprise. More importantly, the patterns of individual consciousness is largely constrained by the available martial mnemonic resources—the vast majority of events and figures mentioned by the respondents are either celebrated through publicly rituals and objects or figure prominently in mainstream historical accounts. Meanwhile, the patterns of individual memories deviate considerably from official commutations, indicating that the translation between memories as a collective endeavor and as individual processes are imperfect. This disconnection suggests that there can be competing visions of the past and the visions are likely distributed unevenly across different social groups.

Specifically, people with higher social-economic status are more likely to mention the Bourgeoisie Revolution, which could be an indicator of how people’s present experience and interests shape their perception of the past. Meanwhile, I revise theoretical ideas on generation and collective memory by showing that the timing of the dramatic events in one’s life trajectory is not the only factor that determines how deeply the memory of the events is engraved in one’s mind. The way in which a person experiences the events also matters. The Cultural Revolution has

the most profound effect on the people who experienced it as adults, as it changed their lives in fundamental ways.

Secondly, the curious placement of Confucius in the minds of Chinese people is worth noting. Despite the popular understanding that Confucian philosophy permeates all aspects of Chinese people's social life, including the political struggle of historical construction (T. Zhang and Schwartz 1997), few Chinese respondent referred to him when asked about the political aspect of history while an overwhelming majority consider him the most important philosopher. Such finding suggest that the impact of the past could be implicit—one might not even think of it when it becomes an integral part of the present. Future research should examine how Confucian thoughts impact people's ideas and behaviors in various social domain, regardless of whether the thinker himself is identified as important by the subjects.

Finally, there is evidence indicating that people's ideas of current laws are associated with their memories of the past. For instance, those who consider the achievement of the communist movements as important think more highly of the laws that strengthen the power of the state. However, the link is not one that is neat and clear-cut. Instead of supporting the laws that are theoretically tied to the each historical era they deemed important, the respondents' reaction toward the various laws is also influenced by how they evaluate the past. Therefore, we see that those who consider the Cultural Revolution as the most important, and yet disastrous, event in Chinese history are not more likely to rank the laws that centralizing state power

high in legitimacy. Instead, they are more likely to support laws that strengthen the logics of the free market, which contradicts the extreme communist values hailed during the Cultural Revolution. Such findings suggest that not only people's cultural identities matter for their legal consciousness, but the specific ways they are associated with the larger cultural discourses also matter.

The analyses in this chapter are limited in a few ways which can and should be addressed in future research. Most noticeably, the connection between public commemorations/historical narratives and patterns of individual consciousness are only observed indirectly. There still needs to be research that directly examines the mechanisms through which individuals absorb information that forms their views of the past and strategies they adopt to reconcile conflicting information. In particular, in recent years, TV series have become an increasingly popular venue for cultural consumption in mainland China. One major theme of these dramas is China's struggle against the Japanese invasion in the 1930s and 1940s. The coincidence between this phenomenon and the overwhelmingly high percentage of respondents referring to the anti-Japanese war opens up space to envision future research on the connection between cultural consumption and collective memories.

In addition, as the study design asked open-ended questions about history, it prompted a wide range of answers. While providing a full view of how China's public perceives the nation's past, this limits the number of responses assigned to each event/person and thus decreases the power to test differences across respondents.

Future research can use a design that limits the respondents' number of choices based on the current survey responses and thus increases the power of the statistical test. In particular, the mismatch between the timing and the cultural significance of historical events suggests the latter might be more meaningful in categorizing events and building hypotheses. The design could also include significant figures that are less mentioned but are likely to pick up variation along certain dimensions, such as Wu Zetian, the one and only empress in ancient China. A few women mentioned Wu Zetian, but the number was too small for a meaningful comparison between the gender groups. Finally, as previously discussed, the cross-sectional nature of the survey limits my ability to make causal claims. The language here suggesting any direction in the association between different variables should be read as a theoretically-informed interpretation instead of empirically-verified causality.

Chapter IV: Legal Compliance in Contemporary China

China consistently ranks low among nations on measures of democracy and the rule of law (Polity IV 2010, World Bank 2012). Surprisingly, given this context, Chinese people highly trust and embrace their courts and legal system (Landry 2008). This paradox and its implication on Chinese people's legal compliance behaviors are the central foci of this chapter.

It is well established that in stable democracies, legitimacy is central for people's respect for and compliance with the law.³⁶ As a transitional authoritarian society, China provides an intriguing case for understanding the lawful cooperation of the masses. In countries whose governments are neither produced through popular elections nor committed to the notion of individual freedom, it becomes a particularly curious question why people obey the law. After all, they have little control over its creation and the content of the law often appears more constraining than liberating. If it is only out of fear of the authoritarian regimes, why do regimes such as the Chinese even bother to set up an elaborate legal system?

My research sheds light on these issues by examining the connection between people's perceived legitimacy of law and their expected likelihood of compliance in

³⁶ This chapter focuses on individual compliance to domestic laws. There are large bodies of literature that survey compliance to domestic laws by other kind of actors (e.g. Gould 2001, Dobbin and Kelly 2007, Kelly 2010, Parker and Nielsen 2011) or compliance to international laws (see Simmons 2010 for a review). While such research is unquestionably relevant to the current project, a comprehensive review is beyond the scope of the current chapter.

urban China. It enriches the sociological research tradition in legal compliance by expanding its scope to a non-Western³⁷ context and complicating presumptions about legal culture(s).

I start with a review of sociological literature on legal compliance, proposing a more nuanced theoretical frame that takes account of culture and the complex social relationships regulated by the law. I then provide a more detailed description of the historical, social and cultural environment of contemporary China that leads to a set of hypotheses. A methods and data section is followed by an analysis of the patterns and relationships emerging from the data. I conclude with a discussion of implications of the current project for the theoretical development of legal compliance study and future research.

Contextualizing Legal Compliance

Sociology has long engaged with the concept of legitimacy and its role in securing obedience. In his analysis of power and political domination, Weber emphasizes the importance of legitimacy in sustaining stable power relations (Weber1978).³⁸ Studies of legal compliance, mostly conducted in the United States, confirm that individuals are more willing to obey the law when they perceive it is

37 I am aware that the “Western vs. non-Western” dichotomy is potentially problematic. Here, “Western” is not used to denote a geographic region but to refer to countries/regions with legal traditions that are highly influenced by the Enlightenment-inspired notions of individuality and social contract and corresponding rights discourses.

38 Such legitimacy is important due to its usefulness in justifying institutions that disregard the personal interests and values of the dominated (Spence 1970; Weber 1978).

imbued with important social values.

Early survey studies in the United States have documented a generally active and assertive citizenry and a widespread, although somewhat unevenly distributed, willingness to comply with and utilize the law (e.g. Priest and Klein 1984, Tyler 2006). Some argue that the willingness of U.S. citizens to follow and use the law derive from “a myth of rights [that] exercises a compelling influence...and provides shared ideals for the great majority...Even otherwise alienated minorities are receptive to values associated with legal ordering” (Scheingold 1974: 78–79). U.S. citizens also obey the law when they perceive that it is procedurally fair (Tyler 1997, Tyler and Huo 2002, Tyler 2006). U.S. citizens thus participate in a shared legal discourse, collectively reinforcing and contributing to the construction of law’s supremacy in regulating social relations. Studies confirm similar patterns for citizens in other industrialized nations (e.g. Torgler and Schneider 2007).

Recent research on legal compliance examines the effect of legitimacy in different realms (e.g. law enforcement, see Tyler, Callahan and Frost 2007a, drunk drivers, see Tyler et al. 2007b, gun offenders, see Papachristos, Meares and Fagan 2009), at particular historical moments (e.g. Chinese Exclusion Era, see Ryo 2006), in specific contexts (e.g. multicultural community, see Tyler 2000), and for various types of laws (e.g. tax laws, see Torgler and Schneider 2007, immigration laws, see Ryo 2006). These works indicate that the symbolic power of law is mediated and conditioned by other institutional structures (e.g. organizational culture, see Tyler et

al. 2007a), personal factors (e.g. emotion, see Murphy and Tyler 2008) and interpersonal networks (Papachristos et al. 2009).

A theme that runs through this literature, but has not been sufficiently theorized, is how the role of the perceived legitimacy of law in legal compliance varies in a systematic way. This is critically important because it gives enhanced leverage to determine when (and therefore why) the law is legitimate. Continuing my arguments in previous chapters, I propose that we start such systematic analyses from the various social relations regulated by legal provisions. Legal rules are sociologically meaningful only in ways in which they are relevant to people's social life. This connection between the legal the social happens through the definition, construction and regulation of social relations by legal rules and the interpretation of legal provisions in social relations (Conley and O'Barr 1990).

Meanwhile, both legitimacy and the organization of social life are closely connected the cultural contexts from which law-related values originate.³⁹ Thus, legal compliance research must look beyond the context of societies with similar legal cultures. To develop theories that are more widely applicable, the study of legal compliance must take into account the situations of non-Western societies. Due to its substantial differences from the usual background of legal compliance research, China

39 A large body literature examines the importance of culture in understanding law-related ideas and behaviors, including numerous studies on China's legal culture and heritage (e.g. Macauley 1998; Lubman 1999; Potter 2001; Potter 2004). However, few socio-legal studies on China have explicated the importance of local culture in compliance behaviors of individuals, which is one of the major objectives of this research.

provides an ideal context for formulating and testing such theories.

Legal Compliance in Transitional China

Contemporary China provides an ideal setting for research on the relationship between legitimacy of law and legal compliance. It is also a relevant setting. With a quarter of the world population and the world's second largest economy (World Bank 2013), China is one of the most influential players in the international community. The country's long-standing emphasis on "education (jiaohua)" over penalty in maintaining legal orders suggests that values should play a central role in guiding law-related behaviors (Liang 1991). Previous studies on legal compliance of marginalized social groups in China indicate that their non-compliance with certain legal rules resulted from their disbelief in the laws' legitimacy (Xin 2005). This study tests if such mechanism is also observable among the general urban population. Despite China's authoritarian state and its legal system rife with arbitrariness (e.g. Johnson 2011, Kahn 2005), survey studies in China have consistently documented exceptionally high levels of trust in courts and other legal institutions among the general public (Landry 2008, Michelson and Read 2011). Such findings imply that Chinese people view law as legitimate. However, with complex, sometimes contradictory, legal cultures coexisting in today's China, it remains unclear whether all laws enjoy the same level of legitimacy according to Chinese people or whether all laws are obeyed to the same extent.

Transitioning from a planned economy to a market economy under an

authoritarian regime, China shares challenges faced by other transitional societies (e.g. Nee, Stark, and Selden 1989, Sachs et al. 1994, Hendley 1996, Czarnota, Krygier and Sadurski 2005). Recent transformations in economic, social and legal arenas in China bring conflicting intellectual traditions into contact (Nathan 1997, Logan 2008). In the realm of law, such clashes have created space for different understandings of and attitudes toward both legal sanctions and the legitimacy of law.

As detailed in Chapter II, China's recent legal reform challenge forms of legal philosophy that once dominated China. For example, the legal formality promoted by newly professionalized lawyers and judges places a greater burden on plaintiffs and defendants to participate in and contribute to the litigation process. This "modernization" contrasts with the litigants' faith in a caring and responsive state, which was strongly supported by both Confucian and socialist legal philosophies. This legal reform thus led to popular resentment and eventually political intervention from the central government (Fu and Cullen 2011). Such instances reflect a contested process of institutional changes and highlight the complexity of Chinese legal cultures that stem from and lead to varying attitudes and behaviors toward the law (Peerenboom 2002). During and after legal reform, the vestiges of previous legal cultures continue to influence the operation and people's perception of the new system.

Hypotheses

As argued in Chapter II, the coexistent legal ideas in China assume different

fundamental values, prioritize different social institutions, and are likely pertinent to different laws. I expect such variation in legal ideas to be accompanied by variation in legitimacy of and compliance with different laws, creating an optimal context for testing their relationship. Therefore, as argued in the previous section, I propose to systematically examine how the relationship between perceived legitimacy of law and legal compliance varies based on the social relations regulated by the law.

Given the authoritarian context of China, I also consider the alternative explanation for legal compliance, among which the most important is the deterrence effect of law. There has been a long-standing tradition in criminology that examines how potential punishment deters people from engaging with illegal activities. Influenced by the law and economics tradition (e.g., Becker 1968, Stigler 1970, Brown 2004), this rationalist school argues that the effectiveness of law is based primarily on its ability to inflict loss and suffering on the person who defies its authority. An individual's decision to be law-abiding thus results from an instrumental cost-benefit analysis (Bridges and Stone 1986, Brown 2004). Compliance is likely when the rational actor's estimate of the expected cost of committing an illegal act outweighs the estimate of the expected benefit: the more certain and severe the punishment, the less likely legal noncompliance (Gibbs 1986). Recent empirical research in this area finds perceived certainty to be the most consistent factor for law's deterrence effect (Waldo and Chiricos 1972, Grasmick and Bryjack 1980, Hirschi and Gottfredson 1990, Maxwell and Gray 2000). My subsequent analysis thus

controls for the extent to which ordinary Chinese people believe that certain law-breaking behaviors will result in formal punishment.

As proposed in Chapter II, the analysis here focuses on three kinds of social relations, namely family relationships, state-citizen relationships and economy-related relationships.

1. Family Relationships

As a kinship based society, imperial China placed paramount importance on the institution of the family and mutual support among family members as the basis and core of social and legal orders (Ebrey and Watson 1986, see also Fei 2005). Even though the political turmoil and economic reforms in recent Chinese history have modified the specific structure of contemporary Chinese families (Quach and Anderson 2008), the value of family ties as the foundation of social life has never been seriously challenged.⁴⁰ I therefore expect:

Hypothesis 4.1a. In China, people will view family laws to be more legitimate than other types of laws.

Hypothesis 4.1b. In China, expectations of compliance with family laws will be associated with perceptions of these laws' legitimacy rather than

40 Mao launched a series of attacks against the “feudalist culture” during the Cultural Revolution and attempted to trump family ties with class struggles. However, in post-Mao China, the Cultural Revolution is considered a grave mistake and one of the reasons cited is its destruction of “traditional culture”. As argued by some China scholars (e.g. Zhao 2000), in contemporary China, as the ideological ground of the socialist state decays, moralistic legitimacy becomes increasingly important; and one way for the government to build such ground is to revive the discourses surrounding familial values.

with perceived likelihood of punishment for violating them.

Two specific legal provisions were chosen from numerous family laws in China. These are laws providing that 1) parents are responsible for raising their underage children and 2) adult children are responsible for supporting their aging parents (Article 21, Marriage Law of the People's Republic of China). These two laws are chosen because filial piety and parental love are the most essential and consistent features of discourses surrounding Chinese families (Yue and Ng 1999, Knapp 2005).⁴¹

2. State-Citizen Relationships

Distinct from family ties are state-citizen relationship. As discussed above, China is considered neither democratic nor liberal. It is thus in this area where one might expect to find the most drastic differences from earlier legal compliance research, which has been conducted almost exclusively in liberal democracies (Lubman 1999). In post-Mao China, the socialist state still has a strong grip over political power and limits the development of civil society (Zhao 2000). Studies on the Chinese legal system have repeatedly documented the influence of political factors in a variety of legal domains (Tanner and Green 2007, Qin 2007, Rooij and Lo 2010). With such strong domination of the executive over the judicial branch of government, individuals face serious consequences for disobeying laws aimed at

⁴¹ Institutions such as marriage, while remaining unique and closely tied to traditional Chinese culture, have gone through considerable reconstruction (Quach and Anderson 2008).

maintaining the political power of the state. Meanwhile, after the Cultural Revolution, the Chinese Communist Party has lost its ideological appeal among some of the younger generations (Zhao 2000). Consequently, the legitimacy of laws that mostly serve state interest is less likely to influence individual behaviors. I thus propose:

Hypothesis 4.2. In China, expectations of compliance with administrative laws,⁴² will be associated less with these laws' perceived legitimacy than with perceived likelihood of punishment for violating them.

The two specific laws chosen for this category are 1) family planning laws (Population and Family Planning Law of the People's Republic of China) and 2) laws that restrict individuals' ability to participate in political groups and demonstrations (Law of the People's Republic of China on Assemblies, Processions and Demonstrations). These laws are chosen because they characterize the unique relationship between the Chinese government and its citizenry as discussed in Chapter II.

3. Economy-Related Relationships: Private vs. Public

This study focuses thirdly on economic regulation affecting interactions among non-intimate parties.⁴³ Many have argued that legal reform of China is mostly

42 In China, laws that define the functions of the state and its organs as well as their relationship to civil society and citizenry are called administrative laws.

43 I am aware 1) that people interact with strangers in ways other than economic transaction and 2) that other groups such as friends, colleagues, neighbors, also play important roles in people's social life. Economic relationships are chosen because of their significance as driving forces of the legal reforms in China. Meanwhile, other groups are likely located

driven by economic reform with the main objective of regulating the market to ensure healthy and sustainable economic growth (Chen 1996, Lubman 1999, Potter 2004). As China models its economy-related legal system after Western economies (Vermeer and d'Hooghe 2002), one may conclude that the law encourages conformity in a similar manner in China's markets as it does in these other market-driven economies. The emphasis on rationality in the realm of economics makes it likely that individuals will base their judgment for law-breaking on a cost-benefit calculation and thus refrain from violation when the risk of punishment is high (Simpson and Koper 1992). On the other hand, economic growth contributes to people's commitment to norms and concepts that are essential to the stability and expansion of free markets and encourages their compliance with laws that reflect such norms (Posner 2000, Tyler 2009).

As argued in Chapter II, This research more specifically distinguishes between laws that protect private economic interests and those that regulate public economic relationships. The distinction is meaningful to the extent that, under an authoritarian and ideologically socialist state, public economic laws should be more legitimate and more influential in evoking compliance than private property laws. Meanwhile, infringement upon the public interest is considered a violation of the state's interest,

between strangers and family members on the spectrum of familiarity and intimacy. This study looks at the extremes of the spectrums as examples of more nuanced variation.

triggering a more serious threat of punishment (Los 1983, Savelsberg 2000).

Therefore, I propose:

Hypothesis 4.3a. In China, expectations of compliance with economy-related laws will be associated with both perceived legitimacy of the law and the perceived likelihood of punishment.

Hypothesis 4.3b. In China, law's perceived legitimacy has a larger impact on people's expectation of compliance with public economic laws than on such expectation for laws regulating private economic relationships.

Hypothesis 4.3c. In China, the likelihood of punishment under the law has a larger impact on people's expectation of compliance with public economic laws than on such expectation for laws regulating private economic relationships.

As examples of laws in the private economic realm, I selected intellectual property rights laws and theft laws, specifically, laws that regulate downloading unauthorized materials and knowingly purchasing stolen property.

To illustrate obedience to laws in the public economic realm I chose tax laws and laws that guard against the private appropriation of public resources.

For each of the eight laws discussed above, I measured individuals' perception of the legitimacy of law, likelihood of punishment for violating the law and their expected likelihood of breaking the law. The next section discusses in detail how each variable was measured.

Key Variables and Statistical Models

I again utilize the survey data described in Chapter II.

Likelihood of (non)compliance with the law

The question regarding legal compliance was worded as follows:

Imagine a person just like you. Given the conditions and opportunities, how likely do you think (s)he will do the following things?

The respondent was then given the list of behaviors that violate various Chinese laws as described in Chapter II (Appendix A) and was asked to give a score of 1 to 5 to indicate the expected likelihood that a person like her/himself would engage in each behavior. The larger the number, the higher the likelihood.⁴⁴

Asking people whether they have violated certain rules directly is the conventional measurement of legal (non)compliance (e.g. Tyler 2006), but it is not optimal for the purpose of this project. If individuals fear the repercussion of violating the law, they are unlikely to report their own illegal behaviors or potential for such behaviors truthfully out of fear of discovery. Indeed, there are reasons for this fear in the current project as the survey was conducted in communities where no researchers can access the residential registration without permission from the local government. At times, researchers had to be accompanied by local residential committee

⁴⁴ In the survey questionnaire, each number is given a verbal label as existing research demonstrates that fully labeled scales facilitate the respondents' comprehension of the questions and are more reliable (Christian, Parsons, and Dillman 2009). The labels are: 1—inconceivable, 2—unlikely, 3—50/50, 4—likely, and 5—definitely.

members⁴⁵ so that security guards would allow interviewers access to residential buildings. Although the interviewers were thoroughly trained to maintain confidentiality of the survey data and respondent information, the respondents nonetheless might suspect the possibility of their responses being leaked to the authorities. Such fear would likely discourage the respondents from being truthful in reporting their own illegal behaviors. Therefore, I adopted a hypothetical approach to protect the respondents and to capture a wider range of possible variation in (non)compliance behaviors.

The eight behaviors included in the survey constitute violations of the four larger categories of laws discussed in previous sections, namely 1) laws that govern family relations, 2) laws that regulate the relationship between the state and citizens, 3) laws that protect public economic interests, and 4) laws that protect private economic interests. Appendix A gives a full list of the eight behaviors in the order in which they appeared in the questionnaire. Except for violations of the family-planning policy that only constitute civil violations, all behaviors could result in either civil or criminal sanctions. The circumstances and severity of violations were not described in

⁴⁵ Residential committees are the self-governing organs of local residents in urban China. According to the “Organizational Law of Residential Committees of PRC”, these committees should be elected by the local residents in the same neighborhoods. The assumed responsibility of such committees are “self-management, self-education and self-service” among the residents. They function under the “supervision, support and help” of the local governments and their delegated offices and “assist the work of local governments and their delegated offices”.

detail but left to the respondent's own judgment.

For the statistical analyses described below, I aggregated the score of different behaviors within four categories of laws as well as across all types of laws to form the dependent variables. Since there are two laws within each category and eight laws in total, the final non-compliance scores are variables with either nine (2-10) (for each type of law) or thirty-six (5-40) (for all laws combined) possible values.

Perceived Legitimacy of Law

The major independent variable of interests is the respondents' perceptions of the law's legitimacy. Corresponding to the likelihood of people's compliance with different types of laws, questions about this variable were also categorized based on the nature of the legal rules. Chapter III provides detailed description of the variable.

Likelihood of Punishment

In consistence with the dependent variable and the main independent variable, the respondents were asked for each deviant behavior, how likely they think a person like him/herself would be punished under the law for engaging in such a behavior.

The question was phrased as follows:

Imagine a person just like you. Had (s)he done the following things, how likely do you think (s)he would be punished under the law? ⁴⁶

The survey interviewers were trained to emphasize that the negative

46 As discussed previously, the certainty of punishment has shown by empirical studies to be most influential and consistent in actors' decisions regarding legal (non-)compliance and thus I only asked about the perceived likelihood of punishment in the current study.

consequences of interest were only those imposed by formal legal institutions, excluding “punishments” from other social groups such as families or neighborhood groups. Similar to the non-compliance question, the respondents were asked to assign a score of 1 to 5 to the likelihood of punishment as the result of each violation, the larger the score, the higher the likelihood.⁴⁷

For both perceived legitimacy and likelihood of punishment, the answers are aggregated in a similar manner as for the likelihood of noncompliance such that each category of laws and all laws correspond with is a legitimacy score and a punishment score.

In addition, different social and demographic groups have different needs and opportunities for deviance and are thus likely to follow different patterns of legal compliance. I included in each statistical model a number of socioeconomic and demographic variables for controlling purposes. *Age* and *sex* have traditionally been included in the study of deviance and criminal behavior (Hagan, Simpson and Gillis 1979, Grove 1985, Friedman and Rosenbaum 1988, Akers and Lee 1999, Tittle, Ward, and Grasmick 2003). *Educational level* and *monthly family expenditure* are used as indicators of respondents’ social economic statuses. I used family expenditure instead of individual income for a number of reasons. First, the age range of the sample covers some high school and all college full-time students who did not work but

⁴⁷The text labels corresponding to the numbers are: 1—impossible, 2—unlikely, 3—50/50, 4—likely, and 5—definitely.

belonged to relatively advantaged social groups. Second, there is a large number of missing values of the income variable due to both its inapplicability to some groups and respondents' reluctance to answer the question. Third, according to a number of experienced survey scholars in China, self-reported expenditure level is more reliable than self-reported income level as Chinese people tend to be reluctant in sharing their real incomes with strangers. Finally, under a single-party regime, it is reasonable to assume that members of the ruling party who are more closely tied with the regime, are more likely to abide by the state-sanctioned legal rules. I thus also included *Communist Party membership* as a control variable. Table 2.1 in Chapter II describes the basic demographic features of the sample.

I used Ordinal Logistic Regression (OLR) models as described in Chapter III for my statistical analyses in this chapter.⁴⁸ The specific model here is as follows,

$$\begin{aligned} \text{logit}[\text{Pr}(\text{Legal compliance score}_i \leq j|x)] \\ = \alpha_j + \beta_1 \text{legitimacy of the law} + \beta_2 \text{coerciveness of the law} + \beta_3 \text{age} \\ + \beta_4 \text{gender} + \beta_5 \text{education} + \beta_6 \text{party membership} \\ + \beta_7 \text{household expenditure}, \quad j = 1, 2, \dots, J - 1 \end{aligned}$$

$\text{logit}[\text{Pr}(\text{Legal compliance score}_i \leq j|x)]$ is called the cumulative logit of category j , and is defined as the log function of the odds of legal compliance score being less than or equal to j against it being larger than j .

Findings

⁴⁸ I also checked the findings using Ordinary Least Square (OLS) regression models and both method provide very similar results in terms of the significances and magnitudes of coefficients.

Distribution of Key Variables

Unsurprisingly, as indicated in Figure 4.1, most respondents report people like themselves to be rather law-abiding. For seven of the eight deviant behaviors, more than 70% of the respondents report that it is inconceivable or unlikely that people like them would display such behaviors. The distributions of nearly all non-compliance variables are left-skewed, meaning that respondents are more likely to report their equivalents as law-abiding rather than law-defying. The exception is the variable representing downloading pirated movies and songs, which is more evenly distributed across the possible responses. Even for this relatively minor offense, however, more than half (55%) of the respondents thought that people like them were unlikely to break the law.

The categories of laws generated different reactions. Most noticeably, as predicted by Hypothesis 4.1a, the absolute majority (>90%) of respondents report it to be inconceivable or unlikely that people like them would ever consider abandoning their responsibilities toward their family (Figure 1a & b). In contrast, people are much more likely to expect infringement upon the economic rights of another private party. Respectively 45% and 26 % of respondents think that people like them would have at least a 50/50 chance of either downloading unauthorized materials or purchasing a stolen bike (Figure 1e & f). In between are people's expectations of their equivalents defying the state's authority (Figure 1c & d) and taking advantage of public resources (Figure 1g & h)—15 to 20% of the respondents expected people like them to have at

least a 50/50 chance of disobeying any of the four laws within these two categories.

Figure 4.2, which replicates Figure 3.4, reports the distribution of the key independent variable, namely the perceived legitimacy of different types of laws. Family laws are by far the most legitimate legal rules—more than 90% of respondent consider disobeying either of the chosen legal provisions a violation to core social values (Figure 4.2a&b). Least legitimate appear to be laws that prohibit downloading pirated materials (Figure 4.2f). Only slightly more than half of the respondents think that breaking such laws somewhat violates core social values. Meanwhile, theft laws, albeit in the same category, are perceived by more respondents to be legitimate than state-citizen relationship laws, particularly family planning laws. Public economic laws are again in the middle of the spectrum, with slightly more than 80% of respondents perceiving either kind of laws within this category to be legitimate (Figure 4.2g&2h).

Figure 4.1: Distribution of Reported Expectation of Legal Non-Compliance by Social Relations Regulated

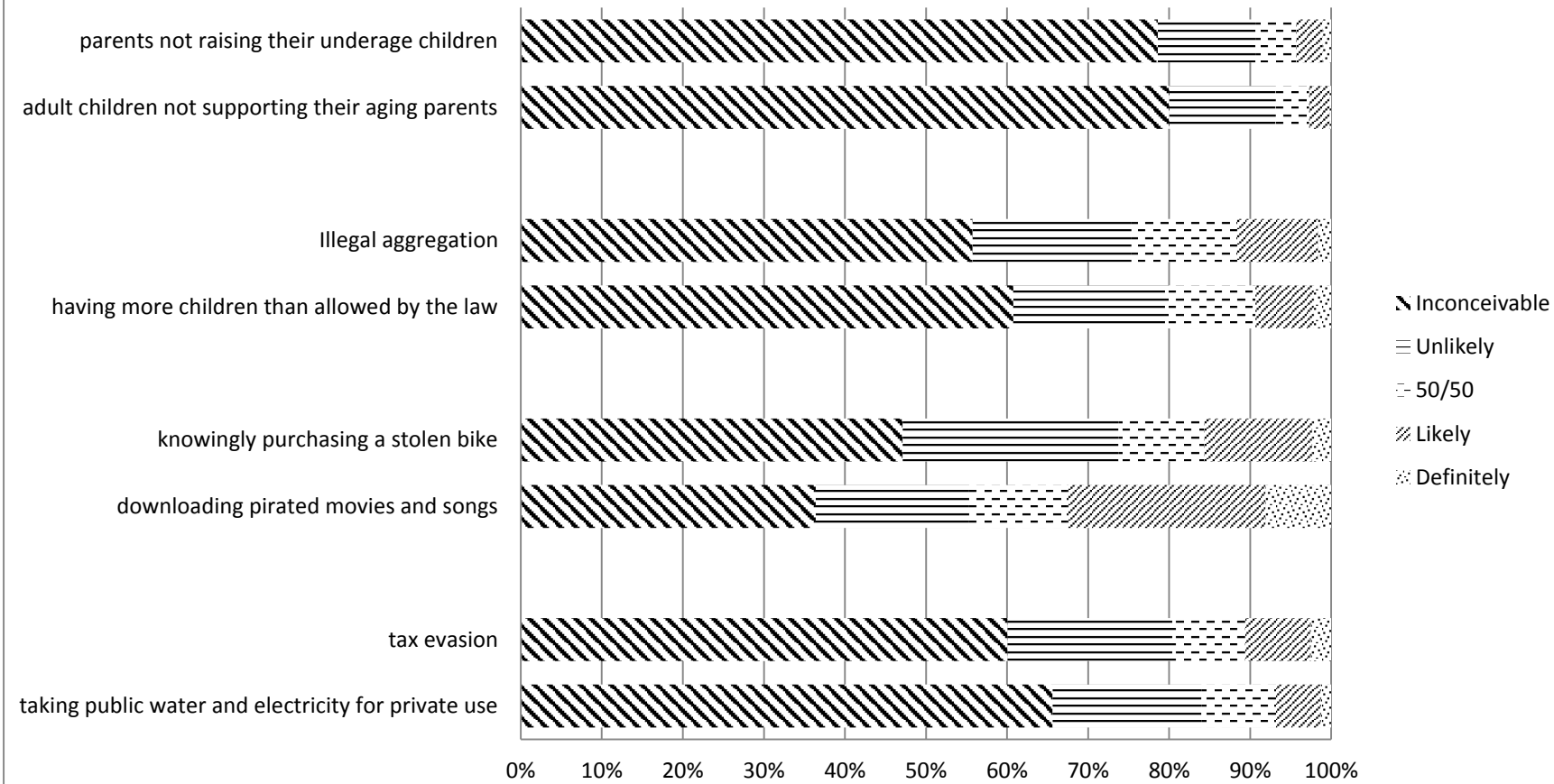


Figure 4.2: Distribution of Legitimacy of Law by Social Relations Regulated
 (How much does violation of the law also violate core social values?)

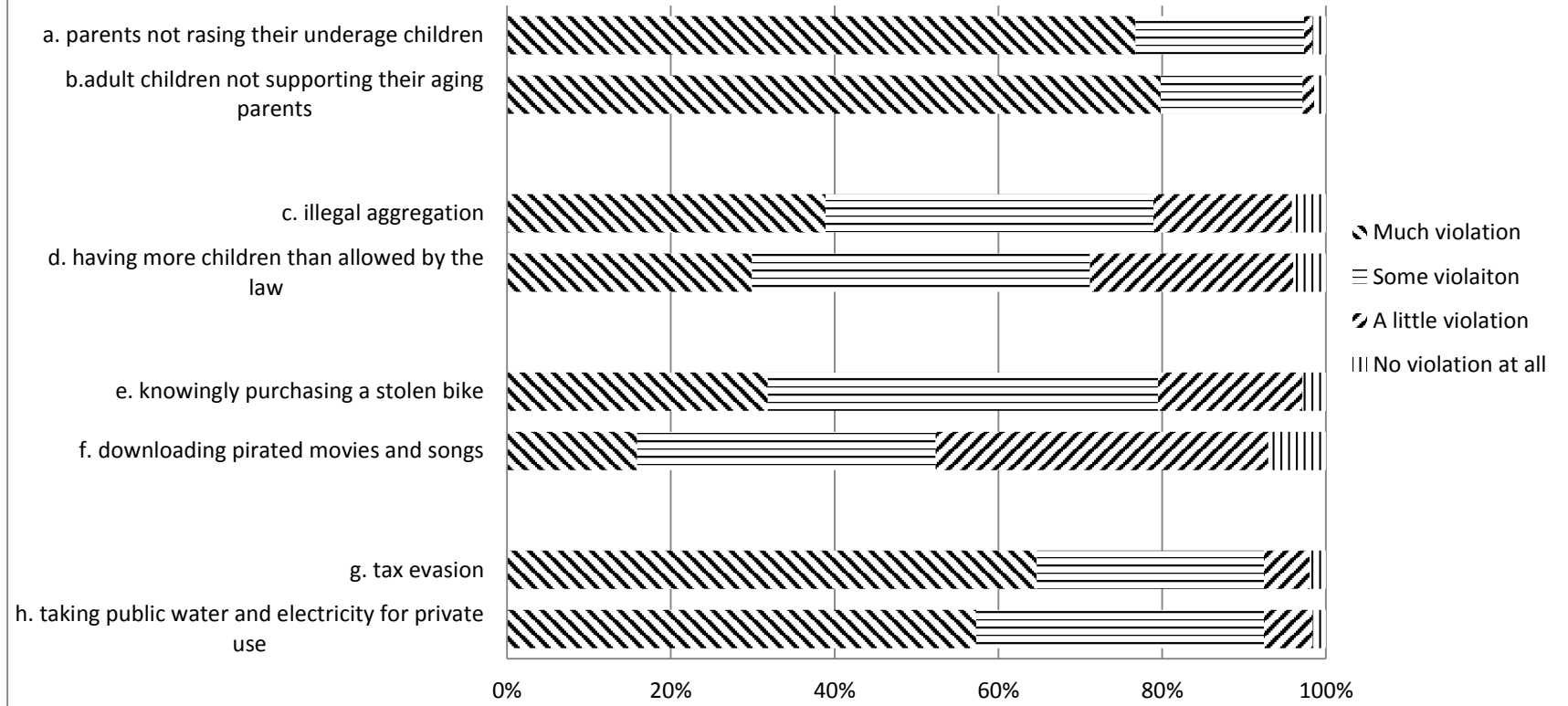


Figure 4.3: Distribution of Perceived Likelihood of Legal Punishment for Non-Compliance by Social Relations Regulated

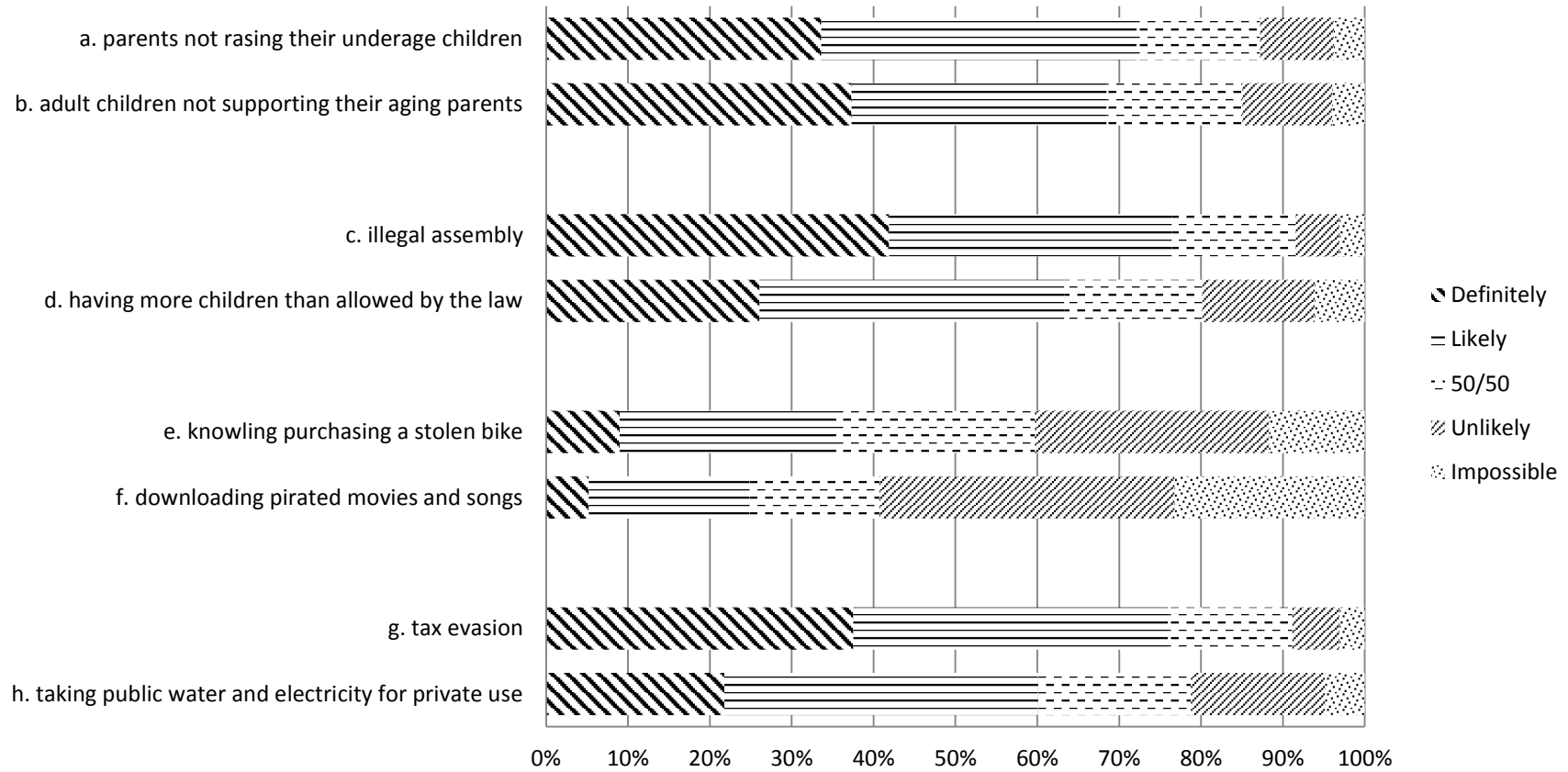


Figure 4.3 presents the distribution of the main controlling variable, the perceived likelihood of punishment under different laws. Private economic laws seem to be at the opposite end of the spectrum from the other laws. Respondents state that people like them are not likely to be punished for violating private economic laws, particularly the piracy law. Almost 60% of respondents believe it is unlikely or impossible for people like them to be punished under the anti-piracy laws (Figure 4.3f) and about 40% think the same for theft laws. In contrast, most respondents think that violating other laws is much more likely to evoke punishment. At least around 80% think there is at least a 50% chance for people like them to be punished under all the other laws for violation, with the highest percent (95%) of them thinking the laws that restrict freedom of assembly were likely to evoke punishment.

There appears to be consistency between the respondents' perception of the legitimacy of a law (Figure 4.2) and their perception of the likelihood that infractions of the same law will lead to punishment (Figure 4.3). Chi-square tests with Gamma statistics (results upon request) indicated that for each specific law, there exists a weak to moderate but consistently significant correlation between the level of perceived legitimacy and the estimated likelihood of punishment. Thus, in China, the more people think a law is legitimate, the more people believe its violation will be punished.

Naturally, the aggregated ranks of perceived legitimacy and expected likelihood of punishment do not match exactly, however. Eighty percent of the

respondents think that theft laws are legitimate (Figure 4.2e) but only about 60% believe that people like them were likely to be punished under the law for breaking these laws (Figure 4.3e).⁴⁹ In comparison, fewer people perceive the family planning laws (70%, Figure 4.2d) to be legitimate while more respondents (80%, Figure 4.3d) think people like them were likely to be punished for disobeying these laws.

Results of Ordinal Logistic Regressions

The results of the multivariate statistical analyses are presented in Tables 4.1 and 4.2. Table 4.1 describes the category-specific relationships between expectations of non-compliance and either the perceived legitimacy or perceived likelihood of punishment,⁵⁰ without controlling for the other. Table 4.2, in contrast, contains full models with the key independent variable, legitimacy, and the main control variable. Models 4.1A/4.2A through 4.1D/4.2D each involves one of the four sub-sets of laws discussed above. The dependent variables in these models are aggregated non-compliance scores of the two deviant behaviors within each category. Model 4.2E in

49 In this analysis, if a person rated the infraction of a law as “much” or “some” violation to core social values, then (s)he is described as attributing legitimacy to this law. If a person rated the likelihood that someone like her/him would be punished for disobeying a law is 50/50 or higher, (s)he is described as thinking punishment under such law is likely.

50 The key independent variable and the main control variable are treated as continuous variables for a number of reasons. First, the coding of independent variables is mostly consequential to the interpretation of estimated coefficients and is not as important as the proper specification of the distribution of the dependent variable. Second, the numbers of categories for each independent variables are rather large, and thus the interpretation of the models will be unnecessarily complicated should they be fitted as categorical variables. Finally, in existing literature, relationship between legal compliance to both the legitimacy of law and possibility of punishment tends to be described as monotonic.

Table 4.2 combines all kinds of laws in the survey questionnaire and measures the general relationships between the tendency of legal compliance and the legitimacy.

Results in Table 4.1 suggest that for all types of laws, the perceived legitimacy and likelihood of punishment both exhibit significant association with the expectations of non-compliance. However, as indicated by the comparison between models in Table 4.1 and those in Table 3, the relationship between perceived likelihood of punishment and the dependent variable are attenuated when the effect of perceived legitimacy is taken into account. Diagnostics of multicollinearity shows that the tolerance of either main independent variables is above than 0.7 (i.e. variance inflation factor is smaller than 1.43) across all types of laws.⁵¹ These indices demonstrate that there is no reason to suspect that the change in significance level of an independent variable's effect is the result of collinearity or unstable standard error

⁵¹ These diagnostics were produced in Ordinary Least Square Regression models with the same dependent and independent variables. SPSS regression procedures for categorical dependent variables do not have collinearity diagnostics. However, one can use the linear Regression procedure for this purpose. Collinearity statistics in regression concern the relationships among the predictors, ignoring the dependent variable (IBM 2011; Kutner, Nachtsheim and Neter 2004).

Table 4.1: Results of Ordinal Logistic Regressions Modeling the Likelihood of Non-Compliance with Different Types of Law

Predictor	Model 4.1A: Family		Model 4.1B: State-Citizen		Model 4.1C: Private Economic		Model 4.1D: Public Economic	
	Coeff. (e^β)	Coeff. (e^β)	Coeff. (e^β)	Coeff. (e^β)	Coeff. (e^β)	Coeff. (e^β)	Coeff. (e^β)	Coeff. (e^β)
Legitimacy of the law	-0.444*** (0.641)		-0.474*** (0.623)		-0.412*** (0.662)		-0.513*** (0.599)	
Likelihood of legal punishment		-0.125** (0.882)		-0.198*** (0.820)		-0.278*** (0.757)		-0.172*** (0.842)
Age in years	-0.011 (0.989)	-0.013 (0.987)	-0.028*** (0.972)	-0.035*** (0.966)	-0.041*** (0.960)	-0.043*** (0.958)	-0.033*** (0.968)	-0.035*** (0.965)
Female	-0.102 (0.903)	-0.108 (0.898)	-0.018 (0.982)	-0.198 (0.820)	-0.521*** (0.594)	-0.556** (0.573)	-0.369* (0.691)	-0.465** (0.628)
Years of formal education	-0.008 (0.992)	-0.018 (0.982)	0.009 (1.009)	0.027 (1.027)	0.058* (1.060)	0.039 (1.040)	0.016 (1.016)	0.009 (1.009)
Party Membership	0.102 (1.107)	0.071 (1.074)	-0.078 (0.925)	-0.144 (0.866)	-0.249 (0.780)	-0.211 (0.810)	0.036 (1.037)	-0.013 (0.987)
Household monthly expense	-0.022 (0.978)	-0.022 (0.978)	-0.015 (0.985)	0.004 (0.961)	0.012 (1.012)	0.006 (1.006)	-0.013 (0.987)	-0.011 (0.989)
N	526	526	526	527	525	526	525	525

Note: * p<0.05; ** p<0.01; *** p<0.001.

Table 4.2: Results of Ordinal Logistic Regressions Modeling the Likelihood of Non-Compliance with Different Types of Laws

	Model 4.2A: Family	Model 4.2B: State-Citizen	Model 4.2C: Private Economic	Model 4.2D: Public Economic	Model 4.2E: General
Predictor	Coefficient (e^{β})	Coefficient (e^{β})	Coefficient (e^{β})	Coefficient (e^{β})	Coefficient (e^{β})
Legitimacy of the law	-0.405 *** (0.667)	-0.428 *** (0.652)	-0.296 *** (0.744)	-0.471 *** (0.624)	-0.146 *** (0.864)
Likelihood of legal punishment	-0.059 (0.943)	-0.093 (0.911)	-0.206 *** (0.814)	-0.063 (0.939)	-0.012 (0.988)
Age in years	-0.011 (0.989)	-0.028 *** (0.972)	-0.040 *** (0.961)	-0.033 *** (0.967)	-0.037 *** (0.963)
Female	-0.065 (0.937)	-0.073 (0.930)	-0.560 ** (0.571)	-0.393 * (0.675)	-0.342 * (0.710)
Years of formal education	-0.010 (0.990)	0.013 (1.013)	0.042 (1.042)	0.012 (1.012)	0.024 (1.024)
Party Membership	0.092 (1.097)	-0.074 (0.928)	-0.234 (0.791)	0.041 (1.041)	-0.026 (0.975)
Household monthly expense	-0.023 (0.977)	-0.012 (0.988)	0.005 (1.006)	-0.015 (0.986)	-0.004 (0.996)
N	525	524	525	525	524

Note: * p<0.05; ** p<0.01; *** p<0.001.

estimation. Therefore, the seemingly significant effect of perceived punishment for some laws is spurious as it disappears in presence of perceived legitimacy. The following analyses thus focus on models in Table 4.2, where both effects are included.

Starting with aggregation of expectations concerning compliance with all types of laws (Model 4.2E), I found legitimacy but not the deterrence effect of the law to be significantly associated with people's expectation of legal compliance by others like them. These patterns resemble findings in other social contexts (e.g. Tyler 2006). They are nonetheless slightly surprising in the Chinese context given the authoritarian nature of the Chinese government. But does this pattern hold up for all kinds of laws or does it vary with the types of social relationships regulated by the laws?

Turning to different categories of laws, expectations concerning legal compliance varied based on the type of regulation. Specifically, as predicted by Hypothesis 4.1b, respondents' expectation of how likely people like them will comply with family laws (Model 4.2A) corresponds to their evaluations of the laws' legitimacy—the more they think a law is legitimate, the less likely they think people like them would disobey it (coefficient = -0.405, $p < 0.001$). In contrast, the expectation of legal compliance in this area does not correspond with people's estimation that a violation will be punished, although respondents tended to believe that the law would be responsive to behaviors that upset family ties.

Hypotheses 4.3a and 4.3b are partially confirmed. In the case of economic laws, the perceived legitimacy of law is associated with expectations of compliance in both

private and public realms while the likelihood of punishment is only associated with expectations of legal compliance in the private realm (Model 4.2C and Model 4.2D, p-values for all significant coefficients smaller than 0.001). The perceived legitimacy of the law matters more for public economic laws than for private economic laws (the coefficients of the legitimacy of law are -0.471 and -0.296 respectively for public and private economic laws⁵²).

These findings highlight the importance of a relational understanding of the law. In other words, the legitimacy and potential deterrence effect of laws, and how they induce compliance, can be better assessed when the analysis considers two aspects: first the actor and secondly the entity in relation to which the actor's interest is defined. In the case of economic laws, although violations of both private and public laws involve the behavior of gaining economic interest by taking property that does not lawfully belong to the actor, the identity of the rightful owner also matters. Chinese people find laws that protect public economic interests both more legitimate (Figure 4.2 g&h vs. Figure 4.2 e&f) and more likely to trigger punishment (Figure 4.3 g&h vs. Figure 4.3 e&f)⁵³ than laws that protect private economic interests. When the "victim" is the general public, they

52 As mentioned above, since the statistical models are non-linear, the numerical values of the coefficients do not have intrinsic meanings. However, as the dependent and independent variables through Model 3A and Model 3D are measured on the same scale, it is meaningful to compare the magnitude of the coefficients of the same variable across different models.

53 The author conducted paired t-tests that indicate the legitimacy and punishment scores of public economic laws are both significantly higher than those of private economic laws. Aware of the categorical nature of the measurement in a more accurate sense, I also performed binomial tests to insure that larger proportion of people gave relatively high scores on those measures for public economic laws than for private economic laws.

seem to be more concerned with how socially (un)acceptable the potential violation is. In their assessment of the likelihood of violation for people like them, the potential punishment is only relevant when respondents position the violator against other private actors.

Finally, the results concerning laws that regulate state-citizen relationships deserve particular attention. Disproving Hypothesis 4.2, likelihood of punishment and expectations of legal compliance with these laws are not related. Also, the link between the perceived legitimacy of the law and expectation of legal compliance is as strong as those for other kinds of laws (Model 4.2B). This finding is curious given popular assumptions about authoritarian regimes securing the political interests by deploying aggressive measures against their citizens (Svolik 2012). Both legal rules within this category have attracted intensive media attention and invoked heated discussion on the oppressive nature of the Chinese state (e.g. Wong 2012, Tang 2013, Kaiman 2013). However, it appears that, in the minds of ordinary Chinese citizens, fear of oppression is not the major deterrent keeping individuals from defying the state. Instead, it is their belief in the righteousness of government restrictions on civil liberty.

Intrigued by this finding, I replicated the OLR model for each of the two specific kinds of legal provisions under this category. Table 4.3 presents the results of the additional statistical analyses. As it appears in Models 4.3A and 4.3B, Chinese citizens have approached the two kinds of laws differently. Specifically, the relationship between the perceived legitimacy of the law and expectations concerning legal compliance is much

stronger for family planning laws than for laws restricting public assembly (the two coefficients are -0.761 and -0.507 respectively and both with p -values < 0.001).

Meanwhile, the likelihood of punishment is significantly associated with expected legal compliance only for the latter.

Such findings complicate the relational understanding of legal compliance discussed in the previous paragraph. In the case of family planning laws, the intended objective of the law (to regulate population growth) intersects with social relations in a much more private and intimate space, the family.⁵⁴ As such, the law invokes different *categories* of social values that conflict and compete with one another. A noticeable and distinctive feature of family planning laws in China is that, in addition to its constraint on individual reproductive rights, it puts two important social institutions, the state and the family, at odds with one another. Given the significance of family in Chinese society indicated by the findings in this and previous studies (Ebrey and Watson 1986), this finding may indicate that violations of family planning laws in China are motivated and justified more by the commitment to the family than by defiance against the state. Such finding thus reveals the multi-faceted nature of legal regulations and hints at the complexity of legal ideas and behaviors.

⁵⁴ Despite its relevance to family life, I decided against the strategy of analyzing the family planning law under the category of family law for two reasons beyond the argument made in previous sections. First, the distributions of key variables for this law more closely resembles those of the public aggregation law instead of the two family laws. Second, in the case of family planning law, the relevance of the law to family relations lies in that it intrudes the family domain and competes with traditional family values. In contrast, the two family laws are consistent with traditional family values.

Meanwhile, both the legitimacy of law and expected punishment play an important role in expectations of compliance with laws that restrict public assembly. This finding partially confirms Hypothesis 4.2 that Chinese citizens, living under an authoritarian regime, are sensitive to the cost of challenging the state. However, the significant role that the legitimacy of this law plays beyond punishment suggests that perceived coercion is not the primary mechanism through which the Chinese government seeks obedience from the masses, even in the political realm.

Finally, this research reveals a stable, significant and negative association between age and legal non-compliance. This could be a simple age effect consistent with most studies on deviant behaviors but it may also reflect the impact of different life trajectories of different age cohorts. Future research could expand this finding by looking into the relationships between people's experience in or memories of the past and their understanding of and behaviors toward the law today.

Discussion and Conclusion

Above all, this analysis reveals that in China, all things considered, it is the social values imbedded in laws instead of the laws' ability to invoke punishment that closely connects to expectations for legal compliance. The importance of the law's legitimacy under an authoritarian regime challenges the common assumption of an essential connection among democracy, liberalism and the rule of law (Hutchinson and Monahan 1987, Murphy 1993).

Furthermore, the drastically different levels of perceived legitimacy among categories of laws warrant a rethinking of the theoretical concept of “legitimacy” in the context of socio-legal studies. Conventionally, studies on legal compliance tend to either treat “law” as a homogenous entity or focus on a single category of law without situating it in the larger legal system and social context. Such studies tend to assume a legal system legitimated through complementary values associated with individual rights (as in the case of rights discourse) and dignity (as in the case of procedural justice). Legal consciousness studies have raised questions regarding the complexity of legality and the potential tension between the legitimacy of law and its repressive nature (e.g. Ewick and Silbey 1998). The research here further reveals an internal tension within the concept “legitimacy of the law” and a close connection to the local context. All laws considered in this analysis are parts of the same legal system and yet are perceived by Chinese people to possess varying degrees of legitimacy.

For example, the one kind of law perceived to be most legitimate in China are laws that strengthen family ties, reflecting the longstanding Chinese culture that arranges social life through kinship networks (Fei 2005). Meanwhile, the laws that protect private (property) rights are relatively less legitimate, indicating the absence of the rights-based legal discourse prevalent under capitalist systems. Such findings not only complicate the definition of “legitimacy” for socio-legal scholars but also highlight the value of conducting socio-legal research in diverse cultural contexts.

The key innovation here, allowing for a more nuanced theoretical treatment of “legitimacy,” is a relational and culturally sensitive conceptualization of the law. By differentiating four major categories of legal provisions and explicating their particular significance in Chinese society, this research demonstrates that the connection between legal compliance and legitimacy is conditioned by cultural and social locations of the law. Both the social relationships regulated by the law and the cultural values supporting the law play a role in people’s expectations concerning obedience to or defiance of the law.

In addition, this research suggests an interaction between the overall level of legitimacy of law and individual expectations concerning legal compliance. Since, in the realm of family relations, respondents overwhelmingly assert the legitimacy of the law, I find that the legitimacy of these laws clearly trumps potential punishment in encouraging compliance behaviors. In contrast, in the realm of private economic relations, the lack of acknowledgement of the laws’ legitimacy coincides with the connection between potential punishment and expected legal compliance. These findings indicate that punishment is sometimes merely a secondary regulating mechanism in some social domains, but this is not true in areas where law coincides with strong normative regulation. Although the limited number of legal rules included in the current study does not allow for a strict statistical test of this hypothesis, more theoretical and empirical discussion on this front will be fruitful in the future.

Finally, the analysis here demonstrates a moderate correlation between Chinese individuals' perceived legitimacy of the law and their perceived likelihood of punishment under the law, regardless of the actual likelihood of such punishment. This finding echoes some previous research in Western societies (Sherman 1993) and raises interesting question about the connection between people's normative judgments and their instrumental decision-making.

Future research should expand discussion on the complexity of legal ideas and behaviors raised here. Conditioned by the survey method, the current project limited the respondents' options to questions that might have otherwise generated more extensive and nuanced responses. The survey questionnaire was designed to reveal the complexity of China's legal culture at the macro level by demonstrating how diverse legal ideas coexist. Nevertheless, it likely masks the multifaceted and self-contradictory nature of both ideas and behaviors at the individual level. Future research will analyze interview and ethnographic data collected in conjunction with the administration of the survey reported here. Such data will shed light on the micro meaning-making processes and power-relationships that interact with macro patterns of legal ideas, behaviors and cultures.

Due to the cross-sectional nature of the data, I cannot make any definite causal inference between people's perceived legitimacy of law and their expectations concerning compliance with the law. It is possible that some of the respondents are using their perception of law's legitimacy (of lack thereof) to justify their expectations

concerning compliance. This does not undermine my fundamental argument that the legitimacy of law and its relationship to legal compliance are both contingent upon the nature of the social relations regulated. Future research can work to deepen and complicate this argument by collecting longitudinal data that will help to tease out the causal direction.

Table 4.3: Results of Ordinal Logistic Regressions Modeling the Likelihood of Non-Compliance with State-Citizen Laws

	Model 4.3A: Public Assembly	Model 4.3B: Family Planning	Model 4.2B: [^] State-Citizen
Predictor	Coefficient (e^{β})	Coefficient (e^{β})	Coefficient (e^{β})
Legitimacy of the law	-0.507 *** (0.602)	-.761 *** (0.467)	-0.428 *** (0.652)
Likelihood of legal punishment	-0.186 * (0.831)	-0.056 (0.946)	-0.093 (0.911)
Age in years	-0.026 *** (0.975)	-0.030 *** (0.971)	-0.028 *** (0.972)
Female	-0.122 (0.885)	0.042 (1.043)	-0.073 (0.930)
Years of formal education	0.040 (1.041)	-0.016 (0.984)	0.013 (1.013)
Party Membership	-0.177 (0.837)	0.049 (1.050)	-0.074 (0.928)
Household monthly expense	-0.019 (0.981)	-0.003 (0.997)	-0.012 (0.988)
N	524	524	524

Note: * p<0.05; ** p<0.01; *** p<0.001.
[^] Model taken from Table 4.2.

Chapter V: Legal Mobilization in Contemporary China

As detailed in Chapter II, on-going economic and legal reforms have elevated law to an unprecedented level of importance in today's China (Diamant, Lubman, and O'Brien 2005). At a time of intensified social conflicts and unrest due to increasing inequality (Erie 2012, Taylor 2012, *The Economist* 2012, Tong and Lei 2010, Wedeman 2009), one major effort by the Chinese state in "making law matter" is to promote "rule of law" and courts as primary outlets for grievances and tools for "sustaining stability" (Weiwen, 维稳) (Erie 2012). Whether and how ordinary Chinese people have responded to state propaganda concerning law is the core question of this chapter, which moves from legal compliance to legal mobilization. Continuing the themes from previous chapters, I argue that the complex legal cultures built upon China's rich historical legacies shape Chinese people's understandings of how law is applicable to the various social relations they face in everyday life. Their tendency to mobilize the law thus hinges upon how they are connected to the larger cultural discourses surrounding the law.

In this chapter, I add to the existing literature on legal mobilization by considering what law means in different spheres of social relations: family, state, and economic (see Chapter II). I further contribute to this field of research by linking ideas toward law and government to people's potential decisions regarding legal mobilization. I start with a brief review of classic legal mobilization research, focusing on the potential contribution of my work to this field. I then expand the theoretical discussion into specific hypotheses. After testing my hypotheses with data collected from my social survey describe in

Chapter II, I conclude with a discussion of the implications of my findings to the studies of both legal consciousness and China.

Legal Mobilization

Legal mobilization, as its name suggests, refers to how people mobilize and make use of legal resources toward certain ends, be such ends personal (e.g. Merry 1990, Yngvesson 1993, Sarat and Felstiner 1995) or collective (e.g. McCann 1994, Diamant 2005). One useful device developed and deployed by legal consciousness scholars to study people's daily interaction with the law, including legal mobilization, is to examine the process of dispute transformation (Felstiner, Abel, and Sarat 1980). Building on this, in this chapter, I explore what Chinese people do when they are faced with different types of inter-personal conflicts. In particular, I focus on their choice between informal and formal mechanisms of dispute resolution, paying special attention to their tendency to use courts.

My research builds on a long-standing tradition of civil litigation studies in the field of law and society, which in the recent decade have been extended to China (Jiang and Wu 2015, Cai 2008, Michelson 2007a, Clark 1990, Hensler 1987, Felstiner, Abel, and Sarat 1980, Miller and Sarat 1980). Although previous studies point to the importance of the nature of disputes in predicting likelihood of legal mobilization, few have systematically examined how the effects of other factors, such as social and demographic characteristics of the individuals, vary across categories of legal provisions. I expand this line of research by deconstructing the concept of law. As described in

Chapter II, I focus on the different social relations regulated by law. I utilize the theoretical frame of legal consciousness, which emphasizes how law constructs and is constructed through social relations (Marshall 2003, 2005, Nielsen 2004, Engel and Munger 2003, Hull 2003, Dellinger and Williams 2002, Witt 2000, Ewick and Silbey 1998, Goldberg-Ambrose 1994, Engel 1993, Burniller 1988, Hull 2003). I find that Chinese urban residents make drastically different choices for dispute resolution strategies when faced with conflicts rising from different social relations.

I also contribute to previous research by reconstituting the “tool kits” (Swidler 1986) of law in the context of transitional China. Most U.S.-based legal studies (Merry 1990 McCann 1994, Morrill et al. 2010), as well as those conducted in China (Gallagher 2006), assume “rights” and “entitlement” as prerequisites for legal mobilization. This assumption suggests an implicit but close bond between awareness of rights and respect for law. For countries like the United States, where very basic social relations are formulated borrowing concepts from law, this bond might make intuitive sense. Yet in China “private rights” were never a presumption or even an implication of traditional law and culture (Diamant et al. 2005, Gu 2009). The law in China does not protect private rights against public power. For example, according to the Administrative Litigation Law, a statute specifically designed to confine the misconduct of government officials and to endow the citizens with the right to sue the government, a lawsuit or administrative review process can only be initiated against “concrete conduct” of administrative bodies or personnel, but the legal process cannot challenge the underlying

law or regulation. In other words, it is not governmental power but only the way government power is exercised by officials that is monitored and open to challenge. In this chapter, I explicate ideas regarding the role of law and government based on different cultural traditions and connects them to patterns of legal mobilization tendencies.

Hypotheses

The Dispute Pagoda

I examine the general patterns of dispute resolution strategies among Chinese urban residents utilizing and expanding the dispute pagoda analogy developed by Michelson (2007). As a revision to the classic “dispute pyramid” (Felstiner, Abel, and Sarat 1980, Miller and Sarat 1980), the pagoda model treats different paths of dispute resolution as alternatives rather than requisite stages. A classical dispute pyramid depicts a fixed, linear sequence beginning with a perceived inequity and culminating in court litigation, with many individuals dropping out at each stage of the process. Because many individuals perceive injurious experiences, but few ever reach litigation, litigation sits at the top of a pyramid. In contrast, a dispute pagoda treats responses to grievances as alternative options (summing to 100%) rather than one step in a sequence, meaning the number of cases at higher levels could possibly surpass those in lower levels, thus the shape of a pagoda. For example, more people could choose to appeal to a local government office than to look for a third party as the mediator, while in class dispute studies, the assumption is that people will only resort to the government after exhausting all informal resources, including mediation. This model is of particular value in the

context of China where, traditionally, the administrative official also assumed judicial responsibilities. Recent campaigns by Chinese government to expand extra-judicial administrative channels of redress so as to contain and manage popular contention (Minzner 2006, Cai 2004, Luehrmann 2003) also contribute to the lingering popularity of appealing to administrative agencies for intervention in disputes (Michelson 2007b, O'Brien and Li 2006). Therefore, in China, the administrative dispute redressing mechanisms are more likely to exist as alternatives rather than precursor to litigation, rendering the dispute pagoda rather than pyramid model a more proper tool.⁵⁵

Following the argument made in previous chapters, I deconstruct the concept of law so as to reflect the complexity of the reality from which it originates and over which it exercises constraints. Therefore, I predict the shape of the dispute pagoda will vary across different types of conflicts. Previous research has demonstrated the type of grievances to be a consistent indicator of strategies chosen by the aggrieved individuals (Jiang and Wu 2015, Michelson 2007a, Genn and Beinart 1999, Kritzer, Bogart, and Vidmar 1991, Curran 1978). However, existing studies tend not to explicitly address the confounding issue between types of grievances and characteristics of the parties

⁵⁵ It should be noted that both models are ideal types, i.e. they are theoretical expectations that are never fully realized empirically. Instead, reality is likely to be a combination of both models—some disputes will go through the informal to formal process step by step while others will start at the middle or top of the different levels. However, different societies vary in the degree to which they resemble one model or the other. The task of researchers is to decide for the society under study, which model fits best.

involved.⁵⁶ In my Chengdu survey,⁵⁷ I examine the preferred dispute resolution strategy for different types of conflicts among the same group of respondents. Similar to the previous chapters, I focus on three different areas of social life, namely state-citizen relationship, private economic transactions and family life.⁵⁸ As previously argued, law matters to varying degrees across these social relations. Specifically, in the realm of family, traditional morality takes precedence and thus there is little to no room for intervention from formal legal institutions. In contrast, as China models its market economy after a number of “rule of law” societies, judicial power may be most relevant in this domain. Finally, scholars have documented the persistent significance of the bureaucratic solutions outside the legal system (Michelson 2007a, Minzner 2006, Cai 2004, Luehrmann 2003) which are likely to be utilized when the conflict is between the state and an individual.

Hypothesis 5.1: Different shapes of the dispute pagoda.

- a. When faced by conflicts within the family, Chinese urban residents are more likely to opt for informal dispute-resolving mechanisms than either petitions to the government or appeals to court.

56 I discuss this issue in more details in the Variables and Statistical Models section of this chapter.

57 See the section on “Variables and Statistical Models” for details on the study design.

58 In this chapter I dropped the category of “public economic relation” as it is rare that an individual would be a complainant in that case.

- b. When mistreated by state officials, Chinese urban residents are more likely to appeal to administrative offices than using either informal channels or going through the judiciary.
- c. When dealing with economic disputes with other private (non-intimate) parties, Chinese urban residents are more likely to appeal to a court than to take other options.

Based on this set of hypotheses, the shape of the dispute pagoda should vary across social relations: the one for the family relation is likely to have the widest base and the one for the economic transactions is likely to be relatively heavier on the top.

Social Stratification and Dispute Resolution

Beyond the social relations from which conflicts arise, the economic, social, and political standing of individuals is also likely to shape the processes of dispute resolution. The long-standing law and society tradition has established that legal institutions tend to benefit the “haves” more than the “have nots” (Kritzer and Silbey 2003, Galanter 1974). In addition to the material resources that enable people with higher socio-economic status to access legal services with more ease, the social and cultural capital possessed by more powerful individuals also enables them to navigate the official systems and utilize them with more confidence (Genn and Beinart 1999, Miller and Sarat 1980, Curran 1978). In the context of China, a higher level of education can lead to familiarity with formal legal codes and the “rule of law” discourse, and thus a higher likelihood of turning to courts. Meanwhile, better economic means can lead to stronger social networks with government

officials, which can be transformed into advantages in accessing the administrative system. Finally, with both the state and legal system perceived as public sphere stages where women do not belong (Head 2009), men are more likely to take up both spaces.

Hypothesis 5.2: Individuals with higher social socio-economic statuses are more likely to utilize formal institutions for dispute resolution.

- a. People with high levels of education are more likely to utilize courts for dispute resolution.
- b. People with more economic means are more likely to appeal to formal institutions other than court for dispute resolution.
- c. Men are more likely than women to use all kinds of formal mechanisms for dispute solution.

Political Embeddedness and Dispute Resolution

In the case of China, where the judicial system has traditionally been fused with the administrative branch of government (Liu & Yang 1984) and is now embedded in and subsumed under the rest of the state bureaucracy (Cho 2003, Potter 1999, Woo 1999, Cohen 1997), individuals' privileged positions in the political system should encourage and facilitate their access to the legal system. One major marker of a privileged political standing is membership in the ruling party, the Chinese Communist Party (CCP). In addition, although on-going reforms have dismantled much of the state-owned and –planned economy, employment within the state bureaucratic system or state-owned enterprises still offers easier access to political resources.

Hypothesis 5.3 Political embeddedness facilitates access to formal justice.

- a. State employees are more likely to choose formal dispute-resolution mechanisms over informal ones.
- b. Communist Party members are more likely to choose formal dispute-resolution mechanisms over informal ones.

Legal Ideas and Decision to Litigate

Qualitative research has examined how people frame their grievance experiences through normative systems based on the legal and social norms they acquire from their social surroundings and personal experiences (Macia-Vergara 2012). However, little quantitative research has been conducted to systematically examine what kind of legal ideas are associated with what kind of behaviors. The current study fills in this gap. Specifically, I look at how individuals' understanding of the roles government and law play in social life are linked to their tendency to make use of the formal institutions. I expect that their understanding of the role of law will mostly be associated with their tendency to resort to court and their understanding of the role of government will mainly be associated with their tendency to appeal to government officials for dispute resolution.

Continuing focusing on the implications of China's long and complex history for individuals' understanding of current political and legal institutions, I focus on three sets of ideas respectively associated with the three major historical eras discussed in Chapter III, namely the Imperial Era, the Republican Era and the Maoist Era. Under a traditional/Confucian model that is considered the dominant philosophy of ancient China,

the relationship and ethics within the family extends to regulate the public sphere. The government is thus seen as parental—loving, care, and protective, albeit authoritative. The law is then an extension of the moral regulation within the family. Under such logic, social harmony is of paramount importance (family members should get along) and individuals are encouraged to make compromises in order to avoid conflicts and instability. I predict that people who identify with the state as a parent are reluctant to bring their disputes to public fora, including both judicial and administrative.

In contrast, under the State Socialist model proposed by the Chinese state since the Maoist Era, the government is claimed to be a ruling machine by and for the proletarian class, usually referred as “the People” (人民), and the law is considered a weapon of class warfare which serve to fulfill the will of the People.⁵⁹ Therefore, people who believe in the socialist nature of the government and the law should not hesitate to utilize public institutions. However, a significant portion of the Maoist Era, particularly the Cultural Revolution, was marked by political movements that emphasized the importance of political struggles and degraded legal orders to the point of non-existence. Therefore, I predict that people explicitly identifying with socialist ideas are more likely

⁵⁹ When translated into English, the expression of the People lost its (revised) Marxian connotation of class struggle and thus “the collective will of the People” may appear similar to the legislation process of elective democracies where the parliament members supposedly represent their constituency. However, this expression is a standard phrase used consistently in conjunction with other concepts such as “the rule of law with Chinese characteristics” to emphasize the socialist nature of the legal system.

to appeal to the administrative branch but will less willing to utilize judicial resources due to either their distrust or diffidence in courts' ability to address their needs.

Finally, under the Enlightenment model, which could find resonance in the Bourgeoisie revolution during the Republic Era, the law is prescribed as a social contract and the government the executioner of the contract. This mode of thinking is most similar to the hegemonic discourse around legality familiar to the Western audience. In the context of China, this Enlightenment discourse is often employed to promote a “modern rule of law” over the “traditional rule of person” and thus might be understood as encouraging the development of a stronger and more independent judiciary. Therefore, I expect people who express such ideas will choose courts over other channels for dispute resolution as a sign of their support for rule of law.⁶⁰

Hypothesis 5.4: Understanding of law's role is associated with the potential use of court.

- a. People who believe law is a contract between the state and its citizen are more likely to use courts for dispute resolution than those who see it as the representation of people's collective will.

⁶⁰ The following hypotheses do not engage with the possibility that the three cultural schemas are relevant to different degrees in different social relations and thus might not influence legal mobilization behaviors for different types of conflicts in the same way. In the results section of this chapter, I do discuss how the effect of these ideas vary across social fields.

- b. People who believe law is an extension of family rules are less likely to use courts for dispute resolution than those who see it as the representation of people's collective will.

Hypothesis 5.5: Understanding of government's role is associated with the potential use of administrative petitioning.

- a. People who believe the government is like the manager of a company are less likely to appeal to government for dispute resolution than those who see it as the servant of people.
- b. People who believe government is like the head of the family are less likely to appeal to government for dispute resolution than those who see it as the servant of the people.

In addition, I also examine how perceived legitimacy of law connects to people's tendency to turn to court. In the last Chapter, I confirmed that under most circumstances, Chinese people's tendency to comply with the law is closely associated with how much they identify the law as reflective of the core social values (i.e. the legitimacy of the law). I argued that this finding indicates that the normative power of law prevails in the context of contemporary China. In this chapter, I further test this argument by examining whether the acknowledged relationship between law and social values encourages people to utilize the law. One would expect the perception of law legitimacy to be associated with one's expected use of legal fora; to some extent this relationship seems tautological. Nevertheless, it will be useful to bring empirical evidence to bear to verify such

connection. Particularly when previous research has established that legal consciousness is multifaceted and can sometimes be ambivalent and inconsistent (Gallagher 2006, Patricia Ewick and Silbey 1998), we should not take any presumed relationships between different elements of legal ideas and behaviors for granted.

Hypothesis 6: Higher level of perceived legitimacy of law encourages the use of courts in dispute solution.

Variables and Statistical Models

Table 2.1 provides descriptive statistics of the individuals who were surveyed. For this analysis, I draw on several different survey questions, which are elaborated below.

Dependent Variables

The following series of questions provided the basis for measuring the nature of individuals' likely responses to conflict situations:

We all experience conflicts in our daily life and we deal with them in different manners. Following is a set of questions on how you might resolve conflicts of different natures. For each of the following situations, assuming you have confronted the other party with the problem without a resolution, would you say you are most likely to a) compromise to accommodate the needs of the other party; b) ask a third person known to both parties to be the arbiter; c) ask the police for help; d) refer the problem to relevant government officials; or e) bring the case to the court?

The respondent was then provided three hypothetical conflicts in the form of a table and was instructed to only choose ONLY ONE mostly like resolution to each of the conflicts:

Table 5.1: Hypotheticals for Legal Mobilization Measure, as presented to Respondents in Questionnaire (translated from Chinese)

	<u>Compromise</u>	<u>Third Party</u>	<u>Police</u>	<u>Government Official</u>	<u>Court</u>
A government official gives you a 5000 RMB unjustified fine and refuses to redress the mistake.	a	b	c	d	e
A business partner owns you 5000 RMB from your last transaction and has refuses to pay you back.	a	b	c	d	e
Your brother-in-law borrowed 5000 RMB from you and refuses to pay you back.	a	b	c	d	e

The three scenarios represent the three different spheres of social relations introduced in Chapter II. They respectively correspond to relationships in the public arena (state-citizen relationship), in private economic transaction, and in the domain of family, enabling me to test how the respondents (intend to) use the law differently for different aspects of their social reality. This approach differs from the conventional measurements of mobilization tendency. More typical are questions regarding people's reactions to actual grievances they have experienced (e.g. Jiang and Wu 2015, (Y. Cai 2008) Michelson 2007, Hensler 1987)⁶¹. I chose a different strategy for a number of reasons. First, existing research indicates that a very small number of Chinese people report grievances in their responses to social surveys (Jiang and Wu 2015, (Y. Cai 2008).

⁶¹ The body of relevant literature is too expansive to exhaust. Therefore, I list but the few studies conducted in contemporary China and the foundational project on civil litigation which started the line of research in the U.S. and elsewhere.

A limited sample size would not have included enough reported conflict experiences to conduct statistical analyses. In addition, this approach minimizes the sense of privacy invasion and is likely to encourage honest responses. In addition, those who are willing to report their grievances in a social survey may not necessarily be representative of the general public. Therefore, the generalizability of conclusions based on such samples is questionable. Finally and most importantly, as discussed previously, types of conflicts have proven to be reliable predictors of chosen courses of action. Yet previous studies rarely consider the possibility that individuals assign different meanings to “conflict”⁶² (for example, what some may perceive as a friendly gesture from coworkers, others define as sexual harassment, see Blackstone, Uggen, and McLaughlin 2009) and thus differ in their likelihood of reporting various types of conflicts. Also, different conflicts are likely to entail different levels of loss to the parties involved. Meanwhile, the demographic and social factors that influence who reports what kind of conflict (independent variable), as well as the potential interests involved with different types of conflicts, could also be associated with what actions one chooses to take when one encounters a conflict (dependent variable) and thus introduces the possibility of confounding.⁶³ Therefore, providing ALL respondents with scenarios involving the

62 As a notable exception, Michelson (2007) systematically examines how the likelihood of *encounter* varies among rural residents in China. However, he still did not account for the potential variance in the grievance “naming” process.

63 In other words, it could be not that the types of conflict matters for what people do but 1) that certain groups who are likely to report particular kinds of conflicts also tend to prefer certain resolution mechanisms or 2) certain types of conflict induce a level of loss that people see as proper for particular form of remedies.

SAME level of economic cost, the hypothetical measurement eliminates possible confounding factors and enable me to focus on the foundational dimension that distinguishes these conflicts—the social relations involved. It also captures how the same group of people reacts to different types of conflicts, avoiding the issue that different social groups are likely to encounter different types of problems.

For the purpose of statistical analysis, I constructed two dependent variables. First, I collapsed the first two options in the questionnaire (i.e. “compromise” and “informal mediation”) into the same category to indicate that the respondent chose an informal mechanism to resolve the conflict. For each scenario, I then conducted multinomial regression analyses, comparing the odds of the respondents choosing any of the formal institutions (i.e. court, government agency, or police) over the informal strategies (Tables 5.4-5.6). Next, I then constructed three dichotomous variables, respectively indicating whether, for any of the three scenarios, the respondent chose courts, formal institutions other than courts (i.e. government agency or police), and any formal mechanism including courts, as conflict-resolving strategy. I conducted binomial logistic regression on these three dichotomous variables to assess the respondent’s general tendency for using court and/or other formal mechanisms (Table 5.3).

Independent variables

A detailed description of the sample and demographic variables can be found in Chapter II. For the current analysis, I also included the respondent’s work-unit sector as

an additional measurement for his/her embeddedness in the political structure.⁶⁴ As indicated in table 5.2, more than 30% of the 299 respondent who reported their work unit type are employed by either the government or state-owned enterprises/institutions. I collapsed these two categories and created a dichotomous variable that indicates whether the respondent works for the state, which suggests that (s)he is more embedded in the political system.⁶⁵

Table 5.2 Distribution of Respondents' Work Unit Type

	N	%
Party, government or government agency or offices	24	8.03
State owned enterprise or institution	73	24.41
Collective owned enterprise or institution	17	5.69
Individual business	35	11.71
Private enterprise	112	37.46
Foreign investment enterprise	22	7.36
Other	16	5.35
Total	299	100

I used the same measurements for legitimacy of law as described in Chapter III.

In the analyses of each conflict, I used the legitimacy of law relevant to the corresponding social relation, namely state-citizen relation, private economic relation, and family relation.⁶⁶ For example, when analyzing the preferred strategy to solve a dispute with a

64 I included this variable in the preliminary analyses for previous chapters but its associations did not reach statistical significance.

65 To preserve degrees of freedom, I coded respondents who did not report their work unit types as not being state employees. This decision is based on my knowledge that most of these people are either full-time students or unemployed. I also conducted statistical analyses without them. The directions of all effects remain the same while the statistical significance level decreases, which is an expected outcome of the decreased sample size.

66 See chapter III for a detailed description of the legitimacy measures. It should be noted that the specific legal provisions used to construct the legitimacy of law are different from those governing the cases in this chapter. In other words, the list of disputes I provided to measure

government official, I included in the sample, the legitimacy score of the state-citizen laws, namingly family planning laws and regulation on public assembly. When analyzing the general tendency of court use, I used the aggregated legitimacy measure of for all three types of laws.

Finally, to measure the respondents' general understanding of law, they were asked the following questions based on the three cultural models discussed in the previous section:

Which of following statements comes closest to your own view?

- A) The law is like the rules within a family.
- B) The law is the collective will of the people.
- C) The law is a contract between the state and the citizens.
- D) Other. Please specify

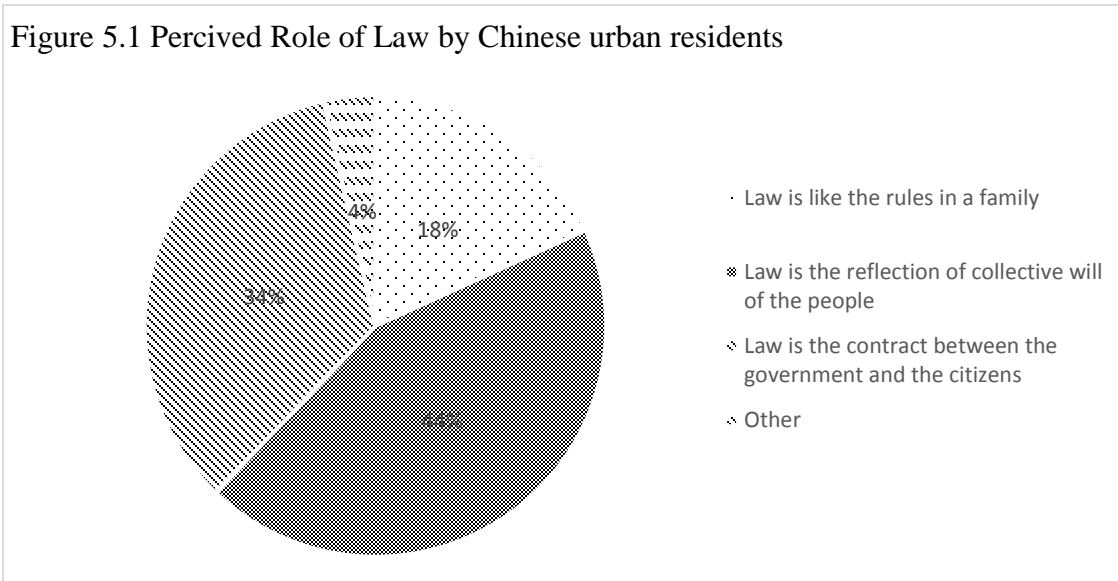
A similar question regarding the role of government was also included:

Which of following statements comes closest to your own view?

- A) Government is like the head of a family.
- B) Government is the servant of the people.
- C) Government is like the manager of a company.
- D) Other. Please specify_____

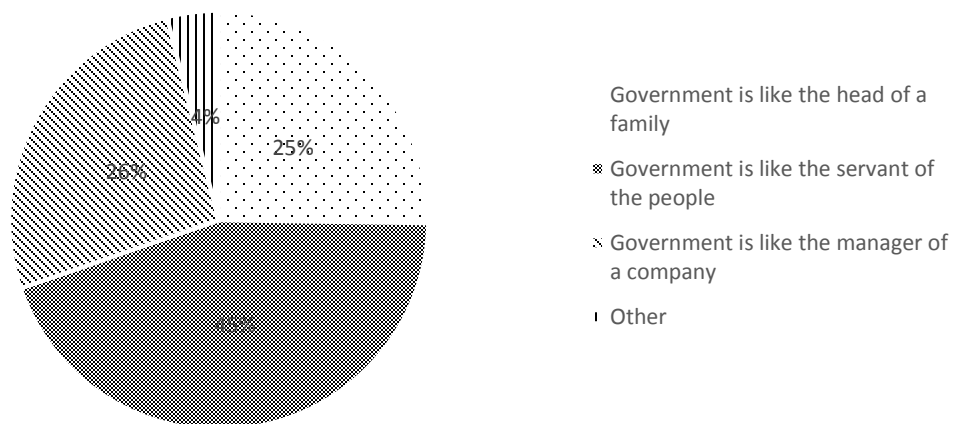
respondents' preferred resolution strategy does not match the list of illegal behaviors used to measure the legitimacy of law. I did so to make the hypotheticals realistic as well as to control the level of economic loss involved in the disputes. However, that should only decrease the potential expected association between the court use and the legitimacy of law. Therefore, with such potentially attenuating condition, the consistent and strong association demonstrated later should be more instead of less convincing.

As shown in Figures 5.1 and 5.2, the largest group of respondents chose answers consistent with Chinese government's socialist ideological line. In other words, they believe 1) that the law is the collective will of the people (44%) or 2) that the government is the servant of the people (45%).⁶⁷ Many more people think the law is a social contract (35%) rather than an extension of family rules (18%). Meanwhile, about the same number of people think the government is like either the head of a family (25%) or the manager of a company (25%).



⁶⁷ These two groups do not completely overlap.

Figure 5.2 Perceived Role of Government by Chinese urban residents



Both of the previous variables were included as categorical predictors without recoding. People who believe “The law is like the rules within a family” and “Government is like the head of a family” are used as statistical reference groups for reasons elaborated in the previous section.

Findings

Dispute Pagoda, Dispute Hourglass, or (Reversed) Dispute Pyramid?

I start with the general distribution of dispute resolution strategies among the respondents. Consistent with the baseline prediction of Hypothesis 5.1, variation across different types of conflict (i.e. different social relations) is evident (Figure 5.3a-5.3b). However, rather surprisingly, when faced with hypothetical dilemmas, urban Chinese residents expressed much higher levels of willingness to utilize formal resources, particularly courts, than previous research would suggest. Combining responses under all scenarios (Figure 5.1d), around 30% of the time respondents expressed that they would

have chosen courts as the best resolution. Meanwhile, around 17% and 15% of the time, respondents chose either police or a government agency. In other words, over 60% of the time, respondents are reporting that the disputes would have been routed to a formal institution.

This tendency to resolve disputes formally is most manifest in the realm of state-citizen interactions and economic transactions (Figure 5.3a & b). When asked to handle conflicts with either a government official or a business partner, respectively 85% and 80% respondents chose one of the three formal options—in stark contrast to conflicts with a family member, where 80% of respondents chose to either compromise or invite an informal mediator, which verifies Hypothesis 5.1c. Yet, the types of formal institutions preferred under either of the first two scenarios still differ drastically. As predicted by Hypothesis 5.1a, when dealing with conflict with a government official (Figure 5.3a), respondents demonstrated a preference for administrative petition to a government agency (34%) over using either courts (29%) or the police (22%). This finding is consistent with Hypothesis 5.1a and previous research that establishes the importance of bureaucratic channels in the context of contemporary China. In contrast, when managing business relationships (Figure 5.3b), courts (47%) appears to be by far the most preferred mechanism among urban Chinese residents while only less than 8% of them opted for a government agency under the same circumstance. This supports Hypothesis 5.1b. Meanwhile, when the respondents do decide to formally handle their family conflict (Figure 5.3d), they are more likely to use courts (13%) than either the

police (5%) or a government agency (3%). Therefore, when looking at the shape of what is expected to be a “dispute pagoda”, we see, as the type of social relation involved in the dispute changes, either a “hourglass” with very wide base for conflicts with family members, a nearly “reversed pyramid” for economic transactions, or a “reversed pagoda” for tension with the government.

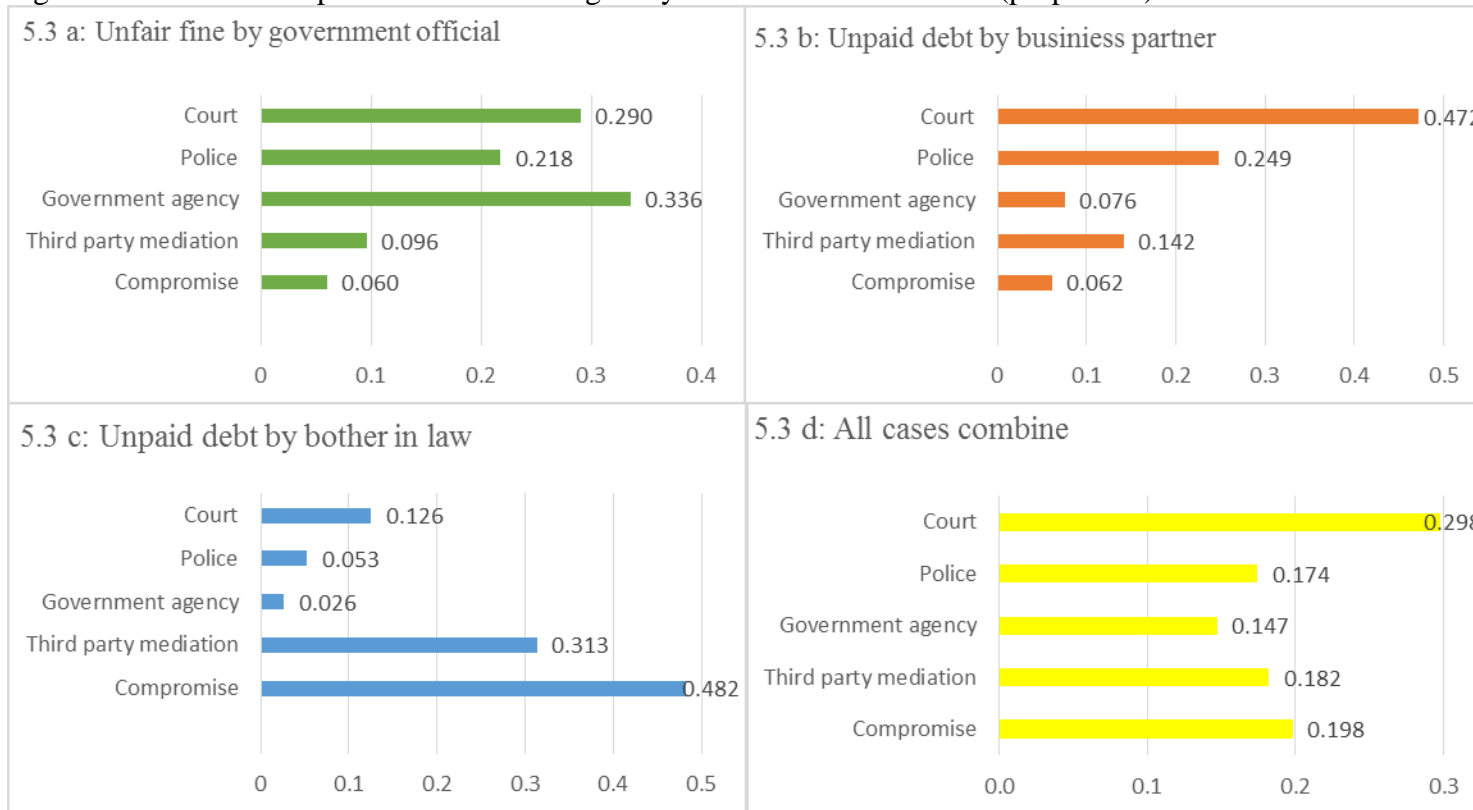
Who goes where for what?

Having demonstrated that distributions of dispute resolution strategies vary considerably across different types of social relations, I now turn to how these distributions vary across different social groups. I also examine how the effects of the social and political standings of individuals and their past experience with the judicial system differ by conflict type.

Socio-Economic Status

Education has no significant effect on the respondent’s choice of dispute solutions (Tables 5.3 to 5.6), rendering Hypothesis 5.2a unsupported. In addition, contrary to Hypothesis 5.2b, increases in household expenditures is associated with a slight decrease in the respondent’s likelihood of choosing police over informal mechanisms (the odds ratio decreases less than 10% for every 1000 RMB increase in monthly household

Figure 5.3 Choice of dispute resolution strategies by Chinese urban residents (proportion)



expenditure, $p < 0.1$) under the circumstances of disputes with business partner or family member (Table 5.5 & 5.6). Richer people are also less likely to petition a government agency to resolve a clash with a family member (odds ratio decreases by over 40% for every 1000 RMB increase in monthly household income, $p < 0.1$, Table 5.4). These findings, while challenging hypotheses originated from U.S.-based research, confirm previous studies on dispute resolution in China (Michelson 2007a, Jiang and Wu 2015). Social and economic capital is not of consistent importance in the context of contemporary China. These outcomes highlight the necessity of expanding legal mobilization research to non-conventional settings.

In contrast, gender has a relatively robust effect on respondents' tendency to use the formal institutions. The general picture (Table 5.3) appears to confirm Hypothesis 5.2c that men are more likely to mobilize formal resources in dispute resolution. The effect of gender on the odds of mobilizing formal resource is mostly driven by men's higher likelihood in choosing courts over informal mechanisms across different types of disputes (Tables 5.4 to 5.6). Particularly for conflict with a family member (Table 5.6), the odds of men opting for litigation is over two-times as high as those of women. In contrast, there is no evidence to indicate that men are more likely than women to either petition the government or report to the police for dispute resolution. This finding suggests that 1) while formally claiming a socialist gender paradigm, China remains a deeply patriarchal society with entrenched gender inequality (Croll 2011) and 2) Chinese citizens do recognize courts as distinguishable from other formal institutions.

Table 5.3: Determinants of Choosing Formal Mechanisms for Dispute Resolution, Selected Odds Ratios Converted from Logistic Regression, **any type of dispute** ^a

	Model 5.3A: Number of Times Opted for Court \geq 1		Model 5.3B: Number of Times Opted for Other Formal Channels \geq 1		Model 5.3C: Number of Times Opted for Any Formal Channels \geq 1	
<i>Perceived role of government</i> ^b						
Government as family head	0.792	0.763	1.072	1.095	0.490	0.505
Government as manager	0.612 *	0.571 *	1.084	1.130	0.274 **	0.287
Other	0.665	0.618	0.583	0.604	0.169 *	0.173
<i>Perceived role of law</i> ^c						
Law as family rule	0.577 *	0.574 *	1.244	1.243	0.364 *	0.364
Law as social contract	0.822	0.812	0.823	0.828	0.526	0.526
Other	0.867	0.869	1.087	1.091	0.505	0.515
<i>Legitimacy of the law</i>	1.101 **	1.098 **	1.022	1.024	1.200 ***	1.200 ***
<i>Contact with court</i>	1.042	0.976	0.871	0.906	0.560	0.586
<i>Socio-economic status</i>						
Household monthly expense	0.998	0.999	0.987	0.986	1.001	1.000
Years of formal education	1.009	1.004	0.990	0.993	0.966	0.968
Male (reference=female)	1.789 **	1.766 **	0.852	0.861	1.894 ^	1.894 ^
<i>Political embeddedness</i>						
Party membership	0.807	0.615 ^	0.719	0.845	0.543	1.559
Employment in the state sector	1.315	0.903	1.627 ^	2.163 *	5.603 *	N/A ^d
Party membership *		4.137 *		0.442		N/A ^d
State sector employment						
N	524		524		524	

Note: ^ p<0.1, * p<0.05; ** p<0.01; *** p<0.001.

- a. age is included in all models as a controlling variable and omitted in the table for the sake of brevity
- b. reference=government as servant of the people
- c. reference=law as collective will of the people

- d. There are relatively few “non-cases” (n=40) in this model and thus the standard error of the coefficient estimates for some variables are unusually large, rendering their interpretation questionable. I therefore omitted them from the table. To make sure that the model is robust, I double-checked the results using Negative Binomial and Poisson regressions with the number of times the respondents opted for formal mechanisms as the dependent variable. Both alternative models produced similar results as the logistic regression model and indicate that there is no interaction effect.
-

Political Standings

The effects of individuals' political standings on their choice of dispute resolution strategies are more complex. Party membership does not increase one's inclination toward formal dispute resolution mechanisms. However, state employment increases the odds of making use of formal institutions by more than five times (Table 5.3, Model 5.3C, $p < 0.05$). Therefore, Hypothesis 5.3a is supported while Hypothesis 5.3b is not. This finding suggests that, while pure political connections to the Communist Party might not always be beneficial under a market economy, political embeddedness through economic arrangements can be of significance.

Zooming into the finer picture, the gap between state and non-state employees appears to be sustained mostly by state employees' preference for formal channels other than courts, that is either police or government agency (Table 5.3, Model 5.3B, $p < 0.05$). State employees display a particularly strong preference for petitioning to a government agency when they are dealing with a conflict involving the government as the other party (Table 5.4). Under such circumstances, state employment increases the odds of appealing to the government by a factor of more than 2.5. In contrast, when considering business transactions and family relations, state employees are not significantly more likely to resort to any formal platform. These findings again underline the variable understanding of law—individuals' perceptions of and behaviors toward law hinge on the social relationship regulated by the law.

Meanwhile, when comparing the likelihood of appealing to court with any other strategy, although party membership or state employment alone does not make a significant difference in the respondents' decisions, party membership within the state

sector is associated with 1.3 times higher odds in choosing courts over other approaches (Table 5.3, Model 5.3A, $0.615 \times 0.903 \times 4.137 = 2.3$, $p < 0.05$). This finding suggests, with the on-going economic reforms, a close connection to the party might still be valuable capital. This is mostly true in an environment where the state still exercise effective control over resource distribution.

How do ideas matter?

I now move on to examining how individuals' ideas toward the law and state are associated with the choices they make when dealing with concrete problems. I also investigate how these connections vary across social relations.

1. Understanding of Government

There is no evidence that individuals who liken the government to the head of a family behave differently from those who see it as the servant of the people. In line with Hypothesis 5.5b, people who see the government as a company manager tend to use administrative petitioning less than those who see it as the servant of the people. This is particularly true for state-citizen relationships and business transactions. In comparison to the reference group, their odds of appealing to the government is less than 50% for an unfair fine (Table 5.4, $p < 0.05$) and less than 20% for an unpaid debt by a business partner (Table 5.5, $p < 0.05$).

Table 5.4: Determinants of Choosing Formal Mechanisms for Dispute Resolution, Selected Odds Ratios Converted from Multinomial Logistic Regression, **incorrect fine by government official**^a

	Model 5.4A			Model 5.4 B		
	Court vs. Informal	Government vs. Informal	Police vs. Informal	Court vs. Informal	Government vs. Informal	Police vs. Informal
<i>Perceived role of government</i> ^b						
Government as family head	0.746	0.576	0.811	0.733	0.580	0.815
Government as manager	0.464 *	0.484 *	0.824	0.447 *	0.491 *	0.830
Other	0.182 *	0.041 **	0.622	0.177 *	0.042 **	0.631
<i>Perceived role of law</i> ^c						
Law as family rule	0.421 *	0.572	0.692	0.422 *	0.573	0.693
Law as social contract	0.765	0.748	0.717	0.762	0.751	0.719
Other	1.085	1.342	1.371	1.079	1.350	1.359
<i>Legitimacy of the law</i>	1.291 **	1.226 **	1.135	1.285 **	1.228 **	1.135
<i>Contact with court</i>	0.765	1.182	0.546	0.741	1.195	0.550
<i>Socio-economic status</i>						
Household monthly expense	0.942	0.961	0.982	0.944	0.961	0.982
Years of formal education	1.030	1.051	0.966	1.027	1.052	0.966
Male (reference=female)	1.835 *	1.745 ^	0.813	1.815 *	1.751 ^	0.814
<i>Political embeddedness</i>						
Party membership	0.613	0.632	0.487 ^	0.535	0.668	0.512
Employment in the state sector	1.758	2.389 *	1.764	1.426	2.521 ^	1.837
Party membership *				1.936	0.840	0.772
State sector employment						
N		525		525		525

Note: ^ p<0.1, * p<0.05; ** p<0.01; *** p<0.001.

a. age is included in all models as a controlling variable and omitted in the table for the sake of brevity

b. reference=government as servant of the people

c. reference=law as collective will of the people

Table 5.5: Determinants of Choosing Formal Mechanisms for Dispute Resolution, Selected Odds Ratios Converted from Multinomial Logistic Regression, **unpaid debt by business partner**^a

	Model 5.4A			Model 5.4 B		
	Court vs. Informal	Government vs. Informal	Police vs. Informal	Court vs. Informal	Government vs. Informal	Police vs. Informal
<i>Perceived role of government</i> ^b						
Government as family head	0.677	0.739	0.946	0.654	0.711	0.965
Government as manager	0.429 **	0.191 *	0.629	0.401 **	0.179 *	0.656
Other	0.576	1.688	0.572	0.544	1.531	0.592
<i>Perceived role of law</i> ^c						
Law as family rule	0.627	1.179	0.724	0.627	1.162	0.794
Law as social contract	0.699	0.606	0.818	0.691	0.597	0.821
Other	1.170	0.000 ^d	1.441	1.162	0.000 ^d	1.417
<i>Legitimacy of the law</i>	1.445 ***	1.334 *	1.258 *	1.442 ***	1.333 ^	1.259 *
<i>Contact with court</i>	0.686	1.012	0.474	0.650	0.999	0.503
<i>Socio-economic status</i>						
Household monthly expense	0.998	0.861	0.986	1.001	0.861	0.984
Years of formal education	0.981	0.958	0.917 ^	0.977	0.954	0.920 ^
Male (reference=female)	1.555 ^	0.749	1.359	1.534 ^	0.741	1.368
<i>Political embeddedness</i>						
Party membership	0.794	0.630	0.733	0.619	0.486	0.872
Employment in the state sector	1.112	0.387	0.945	0.803	0.207	1.126
Party membership *				2.794	7.479	0.170
State sector employment						
N	524			524		

Note: ^ p<0.1, * p<0.05; ** p<0.01; *** p<0.001.

a. age is included in all models as a controlling variable and omitted in the table for the sake of brevity

b. reference=government as servant of the people

c. reference=law as collective will of the people

d. There are too few cases in this cell to make meaningful inference

Table 5.6: Determinants of Choosing Formal Mechanisms for Dispute Resolution, Selected Odds Ratios Converted from Multinomial Logistic Regression, **unpaid debt by brother in law** ^a

	Model 5.4A			Model 5.4 B		
	Court vs. Informal	Government vs. Informal	Police vs. Informal	Court vs. Informal	Government vs. Informal	Police vs. Informal
<i>Perceived role of government</i> ^b						
Government as family head	0.864	1.791	1.394	0.845	1.991	1.346
Government as manager	0.489 [^]	1.954	1.832	0.463 [^]	2.070	1.719
Other	1.333	0.000 ^d	2.015	1.279	0.000 ^d	1.804
<i>Perceived role of law</i> ^c						
Law as family rule	0.574	1.194	1.560	0.577	1.174	1.577
Law as social contract	0.687	0.432	0.855	0.684	0.445	0.865
Other	0.272	3.480	0.000 ^d	0.264	3.800	0.000 ^d
<i>Legitimacy of the law</i>	1.018	1.655	0.744 [^]	1.018	1.610	0.741 [^]
<i>Contact with court</i>	1.140	7.143 [*]	0.709	1.117	7.369 [*]	0.692
<i>Socio-economic status</i>						
Household monthly expense	0.921	0.579 [^]	0.910 [^]	0.925	0.583 [^]	0.914
Years of formal education	1.010	0.975	1.039	1.006	0.978	1.034
Male (reference=female)	2.433 ^{**}	0.412	0.758	2.421 ^{**}	0.448	0.752
<i>Political embeddedness</i>						
Party membership	1.079	0.362	0.412	0.920	0.538	0.206
Employment in the state sector	0.937	1.555	1.754	0.739	1.887	1.331
Party membership [*]				2.026	0.000 ^d	4.981
State sector employment						
N	525			525		

Note: [^] p<0.1, ^{*} p<0.05; ^{**} p<0.01; ^{***} p<0.001.

a. age is included in all models as a controlling variable and omitted in the table for the sake of brevity

b. reference=government as servant of the people

c. reference=law as collective will of the people

d. There are too few cases in this cell to make meaningful inference

Beyond Hypothesis 5.3b, the idea of government being a company manager is also associated with lower likelihood of litigation and the effect appears consistent across different social relations. Specifically, this perception is associated with odds about 55% lower (i.e. odds ratio \approx 0.45) than the reference group for disagreement with the government, ($p<0.05$, Table 5.4), almost 60% lower for disputes with a business partner ($p<0.01$, Table 5.5), and around 50% lower for conflicts within the family ($p<0.1$, Table 5.6). Such findings are unexpected, if not surprising, given that a view of government as business partner is likely to be associated with a social contract model understanding of governmentality. I had expected those with this perspective to privilege courts over administrative agencies, encouraging judicial checks on administrative powers. Combined with their lower likelihood of petitioning a government agency, people who believe that the government assumes a managerial role is associated with odds for utilizing formal resources less than 30% than that of people who hold a socialist understanding of the government as the servant of the people (Table 5.3, Model 5.3C, $p<0.01$).

Another group who also demonstrates aversion toward formal mechanisms is those who did not choose from any of the given answers regarding the role of the government. For this small group, the odds of using any formal institution for dispute resolution is only about 17% that of the reference group (Table 5.3, Model 5.3C, $p<0.05$). This gap is mostly driven by their extremely low likelihood of litigation or administrative petition in case of disagreement with a government official. There is a less than 20% odds that they would litigate and a less than 5% odds that they would appeal to the government under such circumstance in comparison to the reference group (Table 5.4, $p<0.01$). A

closer look at the specific answers provided by this group sheds light on this finding. A number of them mentioned very negative images of the government such as “the government is a group of robbers” or “the government is a machine of oppression.” These sentiments reveal a deep distrust toward the state, which likely leads to avoidance of formal tools in dealing with conflict with the government. Such sentiments may contribute to the increasing number of protests and dissents in China, documented by both mass media and scholars (e.g. “China Protests” 2015, Taylor 2012, *The Economist* 2012, Tong and Lei 2010, Wedeman 2009).

2. Understanding of Law

Consistent with Hypothesis 5.5a, people who believe that law is the extension of family rules are less likely to use courts for conflict resolution. In general, their odds of utilizing court is about 40% lower than the reference group, those who see law as the collective will of the people (Table 5.3, Model 5.3A, $p < 0.05$). This trend is mostly driven by their unwillingness to litigate in case of state-citizen conflict. When faced with disagreement with a government official, their odds of resorting to court are only about 40% of the odds for the reference group (Table 5.4, $p < 0.05$). However, when dealing with problems between business partners and family members, these people show no significant difference from the reference group. Meanwhile, there is no evidence to support Hypothesis 5.5b that those who perceive law as social contracts are more likely to use courts.

The above findings suggest that among the three commonly seen cultural discourses coexisting in contemporary China, the most “Westernized” one, namely the Enlighten discourse, inspires the least amount of confidence in formal institutions.

Meanwhile, a traditional understanding of the state and law seems to lead to differentiated levels of reliance on different types of institution. People who buy into these ideas are as likely to turn to the government as those believing in the socialist models of state and law, but are much more reluctant to use courts.

3. Legitimacy of Law

The most consistent and significant predictor of people's propensity toward using court and/or other formal institutions is the perceived legitimacy of the law. Increased level of perceived legitimacy of law is associated with not only higher odds of choosing courts as a dispute resolution strategy but also preference to other formal arenas. Average across all types of conflicts, one-point increase in the legitimacy score (ranging from 6 to 24) corresponds to about 10% increase in the odds of utilizing courts (Table 5.3, Model 5.3A, $p < 0.01$) and 20% increase in the odds of appealing to any formal authority (Table 5.3, Model 5.3B, $p < 0.01$). For the dispute that involves a government official as the opposing party, higher levels of perceived legitimacy of law increase the use of both court and government agency. One-point increase in perceived legitimacy of the administrative laws (ranging from 2 to 8) is accompanied by nearly 30% increase in the odds of using courts and almost 23% increase in the odds of appealing to the government (Table 5.4, $p < 0.01$). The effect of the legitimacy of law appears even more pronounced for economic transactions as it positively influence the odds of turning to *any* formal institution. Specifically, with one-point increase in the legitimacy score of private economic laws (ranging from 2 to 8), the odds of the respondents choosing court over informal channels increase by 44% on average (Table 5.5, $p < 0.001$), the odds of them

opting for administrative petition go up by 33% (Table 5.5, $p < 0.05$), and the odds of them turning to the police climb by 26% (Table 5.5 $p < 0.05$).

However, in the realm of family, legitimacy of law has no positive effect on the likelihood of using formal resources (Table 5.6, $p < 0.1$). This finding resonates with the finding in Chapter IV that legitimacy of family law does not influence people's tendency to comply with these laws, suggesting that the domain of family is dominated by private moral codes that renders public regulation irrelevant. These findings again highlight the importance of de-constructing "law" as an overarching concept and examining its working mechanisms in specific social contexts.

Discussion and Conclusion

This chapter 1) outlines general patterns in the types of dispute resolution strategies proffered by Chinese urban residents, 2) examines how such patterns vary across different types of disputes and social groups, and 3) studies the connection among individuals' preferences for formal and informal dispute-resolving institutions and individuals' ideas about law and government. The findings detailed in the last section not only shed light on the preference of ordinary Chinese people in dispute resolution but also pose new empirical and theoretical questions to socio-legal scholars as well as students of China.

The first noteworthy pattern is revealed in Figure 5.1 & 5.2. Nearly half of the respondents identify with ideas about either law or the government based on state-sponsored ideologies, meaning ideas that describe the state as an apparatus serving the class interests of the proletarians and the law as the collective will of the proletarian class. Such ideas are not only different from the dominant discourses familiar to a Western

audience, but also inconsistent with traditional Chinese culture. These results demonstrate again the effective ideological control of the Chinese government. Meanwhile, a small but significant number of respondents chose to provide their own unique opinions on Chinese government; the vast majority of these people expressed deep distrust and disgust. This suggests cracks in the powerful web of control cast by the government. These coexisting and colliding perspectives highlight the urgent need for social scientists to take a closer look at the mechanisms through which contradicting ideas take roots in the minds of individuals.

Another major finding is how drastically the distributions of preferred dispute resolution strategies vary across different types of social relations. Ordinary urban Chinese are much more reluctant to resort to any formal institution when dealing with tension within the family. In contrast, they appear much more comfortable presenting their problems on public stages when faced with disagreement with government officials or business partners. Yet the weapon of choice differs in these situations as well. For administrative errors made by government officials, Chinese urban residents prefer resolving the problem within the administrative system and appealing to the government. For business transactions, court is their top choice. These findings are consistent with scholars' efforts to debunk the essentialist stereotypes of a Chinese aversion to litigation (Diamant 2000a, Diamant 2000b, Marsh 2000, Alford 1997, Huang 1996). The very low rate of court use in reality is probably the result of a combination of the dominant type of social interactions and institutional obstacles to access rather than Chinese's people or culture's intrinsic tendency to avoid lawsuits. The variation also suggests that ordinary Chinese people are acutely (if not accurately) aware of the potential distinctions among

the various formal institutions and are strategic in making their choices. Finally, these findings again demonstrate the usefulness of systematically decomposing the concept of law by situating it within social relations.

Findings on the impact of socio-economic standing on the choice of dispute resolution strategies confirm and expand previous research done in China and elsewhere. Existing studies (Jiang and Wu 2015, Cai 2008, Michelson 2007a) have found little or no consistence evidence that Chinese people of higher educational level or better economic resource differ significantly in their approach to inter-personal conflicts from those of lesser education and economic means. This is also true of this research.

However, as is the same for legal compliance, gender appears to be a significant factor in Chinese people's legal mobilization. Men are much more likely to express desire for litigation, particularly for conflicts within the family. Feminist socio-legal scholars have theorized the implication of gender on law in profound manners, suggesting that the masculine nature of the state and judicial systems devalue the views and experiences of women (e.g. Haney 2000, MacKinnon 1983). Empirical research in China has confirmed that, despite the claimed progressive socialist gender ideology, women are constantly marginalized in legal institutions and by legal practitioners (Li forthcoming, Ruskola 1994). However, little empirical effort has been devoted to systematically assess the effect of gender on legal ideas and behaviors in the context of China. While it is not surprising that women are less willing to use courts, given the male bias of the legal (and other public) institutions (Baer 1991), the varied degree to which gender matters for different types of conflicts reveals the complex nature of gendered social relations and

their connection to law. These findings also raise question for policy makers and activists with regard to how to utilize law to promote gender equality.

Findings in this chapter further attest to the sustained importance of political connections in China's legal realm, despite the installation of a market economy and increasing interaction with the global community (Michelson 2007a, Michelson 2007b). In contrast to the minimal impact of social and economic capital, political resources appear to matter in more than one way. To begin, employment in the state sector clearly boosts the preference in choosing formal institutions over informal ones, particularly when the opposite party of the conflict is the state. With the economic reform in China, some has argued for the decreasing privileges of state employees as they lost their "iron rice bowls" (Razavi 2009, Cai, Du, and Wang 2015). While this may be true for concrete economic returns,⁶⁸ the persistent political power of the communist state still renders a position in the state sector with better access to valuable resources such as health care (Zhang 2011) and in this case, confidence to utilize the formal justice system. In addition, the combination of party membership and state employment contributes to higher likelihood of litigation. This pattern is a perfect example of the intersectionality of social stratification—even though political elites (in this case, i.e. party members) in China might not enjoy advantages in all social realms nowadays, when situated in a space still under tight state control, their privileges surface. These findings invite scholars to further examine the peculiar political structures of China and its interaction with other social institutions.

⁶⁸ This is a debated point by itself. Others have argued that even within the context of a market economy "with Chinese characteristics", the sustained power of the state still provides its employees better financial benefits even though (e.g. Bian and Logan 1996).

Finally, another major contribution of this chapter lies in the establishment of an explicit connection between individuals' understandings of law (and the state) and their tendency to utilize legal resources for concrete problems. Existing literature has argued that individuals belonging to different social groups, through their unique social networks, form distinctive ideas about how law functions and understandings of their own position in the legal system, which then translate to varied patterns of legal mobilization behaviors. Yet little empirical research has been conducted to test whether the claimed connection between ideas and behaviors indeed exist. The current work clearly establishes that when individuals think of the roles of government and law differently, they choose their dispute resolution strategies accordingly. Further, the perceived legitimacy of law is proven again to be a main driving force of Chinese people's law-related behaviors. This piece therefore fills in part of the "black box" and demonstrate that ideas indeed matter. It thus again raises the question of how ideology is disseminated and sustained.

In short, this study contributes to the understandings of legal consciousness and China through 1) decomposing the concept law by the social relations it regulates and 2) connecting abstract ideas about law to concrete strategies toward law. There are a few limitations that need to be noted. The quantitative nature of its analyses dictates that it cannot assess the full complexity of either people's legal ideas or their legal mobilization strategies. There are always options in real life not available on a survey questionnaire. While this is inevitable for any research project of a similar nature, further efforts should be made to incorporate the more nuanced ways in which individuals understand and use laws through such data as in-depth interviews or ethnographic observation. Moreover,

even though the hypothetical study design provides me with the leverage of getting the most information from the widest range of individuals, legal mobilization inclinations are not always an accurately predictor of actual behaviors (Jiang and Wu 2015). Therefore, the results of this chapter should be cautiously read as an evaluation of the preferences of Chinese urban dwellers in dispute resolution. In reality, there are numerous factors that can and will change the courses of actions of these individuals, which should be carefully examined by future research.

Chapter VI: Conclusion

Using a social survey of 556 individuals, my dissertation examines how Chinese urban residents remember the past and how they think of and act toward current laws. The findings of my dissertation reveal the complex and ever-changing nature of legal consciousness as part of broader Chinese cultural identities.

Based on previous research on the pivotal role of retrospective narratives in individual and collective identities (Tsutsui 2009, Bellah et. al 1985, Davis 1979), my dissertation treats collective memories of the past as the core of culture. This approach is particularly meaningful in the context of transitional China, where multiple cultural discourses coexist, each resonating with the popular imagination of parts of China's past. My research suggests the mnemonic patterns among individual memory carriers do not represent each part of China's past evenly or proportionally to its duration. Further, as memories of the past among urban Chinese reflect their social positions, their experience with major historical changes, and the mnemonic materials available to them through public commemoration and historical texts, the meanings of the past for individuals do not necessarily line up with dominant cultural discourses.

The most salient aspect of a Chinese identity consists of a nationalistic sentiment informed by memories of struggles with foreign powers. The Opium war and the Anti-Japanese War are constant themes across imaginations of all historical periods. My research also reveals the fluid boundary of a nation; while a large number of respondents identify colonizing powers in recent history as the oppositional force of national struggles, some also mention ancient wars with ethnic minority groups. This finding speaks to the core collective memory theories that define memory as socially constructed

and key to collective identity building. However, inconsistent with my expectations, the nationalistic theme permeates the three major historical periods based on the official narratives that are available to Chinese masses through high school text books. This discrepancy raises questions regarding the mechanism through which the public manifestations of memories of the past become deposited in individual minds. Cultural consumption (e.g. TV watching or reading patterns), among other things, can be a fruitful entry way to further this line of research.

Similar to the complex and sometimes inconsistent patterns of memories, the perception of law among urban Chinese is also diverse and uneven. The strongest ideological power in contemporary China appears to be the moral obligation one bears toward one's family. Family laws are perceived by far as the most legitimate, that is, they closely represent what survey respondents consider as core Chinese social values. Very few urban Chinese can ever imagine abandoning their legal and moral obligations toward their families. In contrast, property rights laws, intellectual property rights laws in particular, are viewed as having little legitimacy, attesting to my argument that the concept of private property should not be taken for granted as the foundation of any legal system. Compliance with these laws is driven not only by their perceived weak legitimacy but also by the possibility of legal sanctions. My analyses further indicate that China's socialist state still has a relatively strong ideological grip over the public. Among the different cultural models, most urban Chinese understand the roles of the law and the government in ways that are consistent with the official narratives. Also, laws that limit personal freedom in favor of public power and order are still considered somewhat or

very legitimate by the vast majority of urban Chinese and this perception motivates them to comply with such laws.

The way urban Chinese use the law also varies across different types of social relations. Interestingly, despite the high level of perceived legitimacy of family laws, urban Chinese are far less likely to mobilize formal legal resources for conflicts within the family. Among different kinds of formal mechanisms, they prefer courts for disputes involving economic transaction and administrative bureaucracy for disputes with government officials. Their tendency to mobilize the law also hinges on their general understanding of law and state. In general, those who buy into the official state socialist narratives of law and state are more likely to utilize formal resources than those who identify with alternative models (i.e. the Confucian Model and the Enlightenment Model). With the exception of family matters, where legal mobilization is rare, the more legitimate they think the law is, the more likely they will appeal through a formal channel for dispute resolution.

In addition to their similarly complex nature, memories among urban Chinese and their ideas toward current laws are also directly connected. Above all, the nationalistic theme runs through people's memories of all periods of China's past, reinforces the image of China as a nation in crisis, and consolidates the perceived need for strong leadership. As a result, memories of national struggles, particularly those led by the CCP, according to official history, such as the Anti-Japanese War,⁶⁹ contribute to people's

⁶⁹ As discussed in Chapter III, there is much debate surrounding the contribution by the KMT and CCP in this war. Historians from outside China tend to agree that the KMT government led the major efforts and the Nationalist armies bore most of the casualty (Fairbank 1983). However, in popular culture as well as school text books in Mainland China, CCP is still described as the heroic leader of the war.

support for laws that strengthen the power of the state. Moreover, how one experiences the past also influences the way one reconstructs it in retrospection and associates it with the present. The Cultural Revolution is the only major historical event that is remembered for negative reasons. The memory of this event is positively associated with perceived legitimacy of laws that strengthen a free market logic, challenging core values promoted during the Cultural Revolution. This finding suggests that strong memories of the past could contribute to identification of the values symbolized by the past both positively and negatively, depending on the way the past is (re)constructed. I also find that, diverging from conventional cohort theories, older people, i.e. people who were past their formative ages during the Cultural Revolution, are more likely to remember this historical period than other age cohorts. I argue that, this is because these people are likely to have experience traumatic life changes at the time which left deep impression on their minds.

Standing back from the specific empirical findings, my dissertation makes several major contributions to the study of law and society. First, it integrates the construction of the past into the discussion of the present by introducing collective memory as a key underlying factor of people's culture identity. In so doing, it provides the legal consciousness scholarship with a tool to explicitly articulate the complex cultural environments in which people experience, think about, and act toward law. The unboundedness of culture shapes the fluidity and complexity of legality. Although socio-legal scholars have long recognized these aspects of social reality, to date, the field has not sufficiently decentered Western hegemonic understandings of law and culture, particularly such concepts as individual rights, which are not necessarily applicable to

other societies including China. The research in this dissertation is among the first to take other cultural assumptions seriously.

In addition, my research shows the promise of decomposing the concept of law into parts based on the social relations law seeks to regulate. This approach is based on the notion that law, particularly law as reflected in the ideas and behaviors of lay people, arises from these social relations with varying significance and meanings. In this dissertation, I specifically tackle three types of social relations: family relations, state-citizen relations, and economy-based relations. Findings suggest that the sources and implications of law's legitimacy vary across these types of social relations. Within the domain of family, it appears that the law derives its legitimacy from strong moral codes. Such codes are likely to produce conformity but to some extent render legal intervention irrelevant in the case of a dispute. In contrast, in relations between the state and its citizens, the legitimacy of law seems to be derived from the state's control over ideological high grounds. As the communist government stands strong, people still believe in and follow the laws that maintain its order. Yet, as the legitimacy lies in the government more than in the law, when it comes to dispute resolution, people are more likely to rely on administrative bureaucracy rather than the judiciary. Finally, economy-based laws are the least legitimate as the basis of the economy, the logic of free markets, does not find as strong a moral or political resonance as the relations regulated by two other types of law. However, it appears that -- due to the lack of other moral authorities to appeal -- when people have trouble with economic transactions, they are more likely to use court than for any other problems. Although research on both legal compliance and mobilization has indicated that people behave differently when dealing with different

types of laws, my research is among the first to systematically trace and theorize such differences. Therefore, the theoretical framework developed in this dissertation is applicable far beyond the Chinese borders.

My dissertation also expands the literature on collective memories. First, it revises theories on the formation of a cohort through shared experience at a certain age. It reveals that not only the timing of a significant social event matters, how the individual experiences it also plays a role. Thus, instead of those who are of a formative age during the Cultural Revolution, those who are already adults when it unfolds are more likely to remember it as their lives were more deeply and irreversibly impacted. Second, by connecting the memories of the past to people's perceptions of present institutions, it also contributes to the emerging literature that endeavors to explore the implications of memories for other aspects of individual identity and attitudes.

Methodologically, my dissertation challenges the convention within the field of legal consciousness research that prioritizes qualitative methods for engaging the nuanced and multi-faceted meanings subjects consume and produce in their interaction with the law. While concurring with the argument that standardized survey methodology is not best suited to reveal the complexity, inconsistency, contradiction, and fluidity of individual consciousness, I argue that it is useful in assessing the complexity, inconsistency, contradiction, and fluidity of culture at the macro-level. Borrowing from the culturalist tradition in collective memories study and bearing in mind the pitfalls of oversimplification, I have designed my survey to cover a wide range of cultural discourses. With this approach, my dissertation has produced useful insights into the larger context of contemporary China that has been either unduly neglected or

misunderstood in previous research. Nonetheless, I am not arguing for abandoning qualitative research in this context. To the contrary, I believe this project paved the way for future researchers who are interested in studying the legal consciousness in China in more intimate ways.

Beyond the theoretical contributions discussed above, my dissertation research provides future China scholars with ample empirical data to assess the context of their research. Despite its significance in the international community and the richness of its history, China, particularly ordinary urban Chinese, remains understudied in the realm of social sciences. Aware of the general cultural environment in which their research unfolds, researchers are more likely to design projects that are meaningful and respectful to the local population. Focusing on one country, the research here reveals the limitations of socio-legal work based on Western assumptions about law. Future work will expand the analysis to how legal consciousness and collective memories vary across other Asian countries with a shared cultural legacy, such as Singapore, Taiwan, Japan, and Korea. Comparisons among these societies will provide further insights into how culture interacts with other social institutions, such as political structures and economic arrangements. Comparisons can also be made between China and other societies with distinctive cultural traditions such as the United States. Such comparisons can answer questions regarding the cultural specificity of social relations and law, for example.

My research also has implications for activists who aspire to bring change to China's social, legal, and political systems. It reveals strong nationalistic sentiments and strong family ties among Chinese urban residents, which can be seen as both obstacles and resources for bringing about social changes. On the one hand, reformers could

repurpose these existing discourses to promote their causes. For example, research on the Ti'an Men Square event indicates that a key strategy for the student movement to garner public support was to appeal to moral languages in traditional Confucian narratives (Zhao 2000). On the other hand, the authoritarian state of China very shrewdly co-opted these discursive resources as well. In addition to the recent reintroduction of the concept of "social harmony," the Chinese government has invested considerable resources in establishing its image as a rising super power and thus taps into the increasing national pride among Chinese citizens for legitimacy. To counter such nationalistic narratives could thus be the mission of activists and social reformers.

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Marriage Law of the People’s Republic of China

Population and Family Planning Law of the People’s Republic of China

Appendix A: A List of Violations included in the Survey Questionnaire

- 1) **Downloading pirated copies of movies and songs**
 - 2) **Knowingly purchasing a stolen bike**
 - 3) **Taking public resources for private use**
 - 4) **Tax evasion**
 - 5) **Having more children than allowed by the law**
 - 6) **Public assembly without official permission**
 - 7) **Parents not raising their underage children**
 - 8) **Adult children not supporting their aging parents**
-

Appendix B: Survey Questionnaire (English)

Section I: Social Relations, Culture and History

Our life is made up of various aspects and groups of people. Different people see different aspects as important. Please tell me how important the following aspects are to you (1—not important at all, 2—somewhat unimportant, 3—somewhat important, 4—very important).

	NIA	SW UI	SW I	V I
1) You career	1	2	3	4
2) Your family	1	2	3	4
3) Your friends	1	2	3	4
4) Your neighbors	1	2	3	4
5) Your nation	1	2	3	4

6) Which of the following is the most important to today's China?

- A) Rapid economic growth
- B) Shrinking the gap between the rich and the poor
- C) Respect and caring among people
- D) Other. Please specify _____

7) Which of following statements comes closest to your own view?

- E) Government is like the head of a family.
- F) Government is the servant of the people.
- G) Government is like the manager of a company.
- H) Other. Please specify _____

Please tell me your opinion about the following statements. For each statement, how much do you agree (1—strongly disagree, 2—somewhat disagree, 3—neutral, 4—somewhat agree, 5—strongly agree)?

	SD	SW D	N	SW A	SA
8) Even if parents' demands are unreasonable, children still should do what they ask.	1	2	3	4	5
9) When hiring, only competence should be considered as qualification for the job.	1	2	3	4	5

10) When the interest of the collective is in conflict with one's personal interest, one should compromise his/her personal interest.	1	2	3	4	5
11) It is OK to confront the elderly in the family.	1	2	3	4	5
12) The gap between the rich and the poor is inevitable and the two groups should shoulder the same responsibilities toward society.	1	2	3	4	5
13) A man will lose face if he works under a female.					
14) It is OK to confront a more senior colleague in the work place.	1	2	3	4	5
15) It is OK to compromise public interest for one's personal gain.	1	2	3	4	5
16) Men and women should enjoy equal opportunity in professional development.	1	2	3	4	5
17) Rich people should be taxed more heavily and contribute more to society than poor people.	1	2	3	4	5

We all come across difficult situations in our daily life, following is a set of choices that one might have to make under conflicting circumstances. For each situation, how much do you approve of the choice of the actor (1—strongly disagree, 2—somewhat disagree, 3—neutral, 4—somewhat agree, 5—strongly agree)?

	SD	SW D	N	SW A	SA
18) Xiaoli broke up with his girl because					
a. his parents disapprove their relationship.	1	2	3	4	5
b. she impedes his career.					
c. she opposes him engaging in anti-poverty activism.	1	2	3	4	5
	1	2	3	4	5
19) Xiaochen, who works for the human resource department of a large company, helped a job candidate secure a position in the company even though there was another candidate who was slightly more qualified because,					
a. it's his mother's request- the first candidate is his cousin.					

b. to promote the sales of the company-the first candidate is related to an important client.	1	2	3	4	5
	1	2	3	4	5
c. the first candidate's family is facing financial difficulty.	1	2	3	4	5

People always use holidays, works of art (such as writings, paintings, movies, etc), and places (such as museum, memorial buildings, etc) to exhibit and commemorate our history. The following is a list of historical periods and events in Chinese history. For each, how much do you think it is worth commemorating? (1—not worthy at all, 2—somewhat unworthy, 3—somewhat worthy, 4—very worthy, 5—don't know much about the event)

	NWAA	SW U	SW W	V W	DK
20) Pre-dynasty History	1	2	3	4	5
21) Slavery Dynasties	1	2	3	4	5
22) Feudal Dynasties	1	2	3	4	5
23) The Opium War	1	2	3	4	5
24) The Xinhai Revolution	1	2	3	4	5
25) The Republic Period	1	2	3	4	5
26) The “5.4” Movement	1	2	3	4	5
27) The anti-Japanese War	1	2	3	4	5
28) The War of Liberation	1	2	3	4	5
29) The Beginning of PRC History (1949-1979)	1	2	3	4	5
30) The Opening and Reform Era	1	2	3	4	5

People have different assessment of historical events and figures. We want to know how you think of some aspects of the Chinese history and what you do to celebrate that history.

31) What do you think are the two most important historical events or changes throughout the Chinese history?

a. _____

b. _____

Could you briefly explain why you chose the two events/changes?

a. _____

b. _____

32) What do you think are the two most important historical events or changes in China in the past 50 years?

a. _____

b. _____

Could you briefly explain why you chose the two events/changes?

a. _____

b. _____

33) Please name a political leader that you think is the greatest throughout Chinese history.

34) Please name a philosopher/thinker leader that you think is the greatest throughout Chinese history

Section II: Law

People have different ideas of the function of the law in a country. Following is a series of questions with regard to this issue.

35) Which of following statements comes closest to your own view?

- E) The law is like the rules within a family.
- F) The law is the collective will of the people.
- G) The law is a contract between the state and the citizens.
- H) Other. Please specify _____

Please tell me your opinion about the following statements. For each statement, how much do you agree (1—strongly disagree, 2—somewhat disagree, 3—neutral, 4—somewhat agree, 5—strongly agree)?

	SD	SW D	N	SW A	SA
36) Good law should always produce just outcomes.	1	2	3	4	5
37) Good law should be logic and without loopholes.	1	2	3	4	5
38) Good Law should rigorously regulate rules and behaviors in the market.					
39) Good law should be consistent with Chinese traditional culture.	1	2	3	4	5
40) Good law enforcement should prioritize the interest of the disadvantaged groups.	1	2	3	4	5
41) Good law enforcement should be consistent with human nature and people's feelings.	1	2	3	4	5
42) Regardless of the outcome, good law enforcement should always follow proper procedures.	1	2	3	4	5

People have different ideas of how the court should do in its job. For each of the following situations, how much do you approve of the choice of the court (1—strongly disagree, 2—somewhat disagree, 3—neutral, 4—somewhat agree, 5—strongly agree)?

	SD	SW D	N	SW A	SA
43) The court acquitted a defendant on the ground that the evidence provided by the prosecutor was not acquired legally even though it is clear that the defendant was guilty of the crime charged.	1	2	3	4	5
44) In a murder trial, the court surveyed the audience at the trial before making the final ruling.	1	2	3	4	5
45) In the trial of a gang leader, the PRC Supreme Court bypassed the local court and sentenced	1	2	3	4	5

the defendant to death based on the account that the local court was too lenient.

We all experience conflicts in our daily life and we deal with them in different manners. Following is a set of questions on how you might resolve conflicts of different nature. For each of the following situations, assuming you have confronted the other party with the problem without a resolution, would you say you are most likely to a) compromise to accommodate the needs of the other party; b) ask a third person known to both parties be the arbiter; c) ask the police for help; d) refer the problem to relevant government officials; or e) bring the case to the court?

	<u>Compromise</u>	<u>Third Party</u>	<u>Police</u>	<u>Government Official</u>	<u>Court</u>
46) A government official gives you a 5000 RMB fine which you do not deserve and he/she refuses to redress the mistake.	a	b	c	d	e
47) A business partner owns you 5000 RMB from your last transaction and has delayed the payment for more than a year.	a	b	c	d	e
48) Your brother-in-law borrowed 5000 RMB from you and refuses to pay it back.	a	b	c	d	e
49) Your neighbor's dog bit you and caused a 5000-RMB medical bill that the neighbor refuses to pay.	a	b	c	d	e

Please tell me, how much do you think each of the following behaviors violates the core values of our society? (1—not at all, 2—a little, 3—somewhat, 4—very much)

	NAA	AL	SW	VM
50) Downloading pirated copies of movies and songs	1	2	3	4
51) Knowingly purchasing stolen goods, such as bikes	1	2	3	4
52) Taking public water and electricity for private use	1	2	3	4
53) Bribing a judge to influence the outcome of a law suit	1	2	3	4
54) Tax evasion	1	2	3	4
55) Having more children than allowed by the law	1	2	3	4
56) Demonstration and aggregation in public places without official permission	1	2	3	4
57) Parental negligence	1	2	3	4
58) Setting up vending spots at places not allowed by the city policy	1	2	3	4
59) Adult sons/daughters not supporting their aging parents	1	2	3	4

Please tell me, for a person with similar social status as you, how likely you think each of the following behaviors might entail harsh punishment by through formal legal institutions? (1—impossible, 2—unlikely, 3—50/50, 4—likely, 5—definitely)

	IP	UL	50/50	L	D
60) Downloading pirated copies of movies and songs	1	2	3	4	5
61) Knowingly purchasing stolen goods, such as bikes	1	2	3	4	5
62) Taking public water and electricity for private use	1	2	3	4	5
63) Bribing a judge to influence the outcome of a law suit	1	2	3	4	5
64) Tax evasion	1	2	3	4	5
65) Having more children than allowed by the law	1	2	3	4	5
66) Demonstration and aggregation in public places without official permission	1	2	3	4	5
67) Parental negligence	1	2	3	4	5
68) Setting up vending spots at places not allowed by the city policy	1	2	3	4	5
69) Adult sons/daughters not supporting their aging parents	1	2	3	4	5

Ordinary people break official rules for various reasons. Imagine a person who share similar values and social status as you, how likely would you say the person would do each of the following things given he or she might have the need? (1—impossible, 2—unlikely, 3—50/50, 4—likely, 5—definitely)

	IP	UL	50/50	L	D
70) Downloading pirated copies of movies and songs	1	2	3	4	5
71) Knowingly purchasing stolen goods, such as bikes	1	2	3	4	5
72) Taking public water and electricity for private use	1	2	3	4	5
73) Bribing a judge to influence the outcome of a law suit	1	2	3	4	5
74) Tax evasion	1	2	3	4	5
75) Having more children than allowed by the law	1	2	3	4	5
76) Demonstration and aggregation in public places without official permission	1	2	3	4	5
77) Parental negligence	1	2	3	4	5
78) Setting up vending spots at places not allowed by the city policy	1	2	3	4	5
79) Adult sons/daughters not supporting their aging parents	1	2	3	4	5

Now I want to ask you some questions about your experiences with the Chengdu courts in the past 5 years.

- 80) During the past 5 years, have you appeared in a Chengdu court as part of a case you were involved in as a defendant or a plaintiff?
 A) Yes.
 B) NO.
- 81) During the past 5 years, have you appeared in a Chengdu court as a witness in another person's case or to observe another person's case?
 A) Yes.
 B) NO.
- 82) Have you had any other contact with the Chengdu courts during the past 5 years that you have not already mentioned?
 A) Yes. → What type of contact was it?
 B) NO.

If the answer to any of questions 81)-83) is A), then read "Now I would like to ask you about the experience you had with the courts in the past 5 years that was most important to you .".

- 83) In the past 5 years, how many times did you have direct contact with the Chengdu courts?
 A) Once
 B) More than once
- 84) In the experience, what was your role?
 A) Plaintiff or defendant
 B) Witness (skip Q90)
 C) Other (skip Q86 and Q90)

Please tell me your opinion about the following statements. For each statement, how much do you agree (1—strongly disagree, 2—somewhat disagree, 3—neutral, 4—somewhat agree, 5—strongly agree)?

	SD	SW D	N	SW A	SA
85) I was given the chance to make my argument.	1	2	3	4	5
86) The judge was competent.	1	2	3	4	5
87) The judge was polite.	1	2	3	4	5
88) The judge was fair.	1	2	3	4	5
89) I was happy about the outcome of the case.	1	2	3	4	5
90) I would go to court again if I would be in similar situation.	1	2	3	4	5
91) I would recommend my friends and family to go to court for similar situations.	1	2	3	4	5

Section III: Demographic Information

Now I would like to ask you a few questions about you and your family. Your answers will not be released to anybody but the researchers of this project.

- 92) (Interviewer fill out)Sex of respondent: A) female; B)Male
- 93) Your year of Birth is? _____ 94) Your ethnicity is? _____
- 95) Are you a local Chengduer?
A) Yes (Skip Q94)
B) No
- 96) Are you a Sichuaner?
A) Yes
B) No
- 97) What is your residential registration status?
A) Local Urban B) Local Rural C) Non-Local Urban D) Non-Local Rural
E) Other. Please specify _____
- 98) What has been your main employment status in the past 3 months?
A) Full-time
B) Part-time
C) Temporary job
D) Agricultural Work
E) Student (Skip to Q103)
F) Jobless (Skip to Q103)
G) Other. Please specify _____
- 99) What is your occupation? _____
- 100) What is the type of your work unit?
A) Party, government or government agency or office
B) State owned enterprise or institution
C) Collective owned enterprise or institution
D) Individual business
E) Private enterprise
F) Foreign investment enterprise
G) Other. Please specify _____
- 101) What was your total income last month? _____?
- 102) What is your political affiliation status?
A) Party Member
B) Youth League Member
C) Member of any democratic party
D) None of the above

What is the year of formal education received by each of the following family members of yours?

Years of Education	
103)	Respondent
104)	Father
105)	Mother
106)	Spouse

What is the highest degree received by each of the following family members of yours?

(1—less than elementary school, 2—elementary school, 3—junior high, 4—high school diploma or equivalent, 5—professional college, 6—college graduate, 7—master’s degree or higher)

107)	respondent	1	2	3	4	5	6	7
108)	Father	1	2	3	4	5	6	7
109)	Mother	1	2	3	4	5	6	7
110)	Spouse	1	2	3	4	5	6	7

111) How much did your whole family (including you, your spouse and your parents and/or children who live with you) spend last month? (including all kinds of expenditures such as rent, mortgage, utility, grocery, clothing, transportation, medical bills, insurance, travelling/recreation, education, etc)_____ yuan

112) How much income did your whole family make from all sources in year 2011? (including all sources of income from your family members, such as wage, all kinds of bonus, allowance, profit sharing, dividend, net income from business earnings, interests from bank deposits, contributions from relatives and friends, etc.)_____ yuan

113) According to income and expenditure in 2012, compared to other families in the local area, your family’s living standard is by and large which of following levels?

- A) Upper
- B) Upper-middle
- C) Middle
- D) Lower-middle
- E) Lower
- F) Other, please specify_____

114) What is your marital status?

- B) Single (never married)
- C) Cohabiting
- D) Married
- E) Separated
- F) Divorced
- G) Widowed

115) Will you be willing to be contacted for a follow-up interview with researchers of this project?

A) Yes. Please leave a method that you can be most easily reached :

B) No.

Thanks a lot for you cooperation!

Appendix C: Survey Questionnaire (Chinese)

2012年成都市居民价值观调查问卷

1. 问卷编号: [__|__|__]

2. 采访地点: (记录地点的名称)

区: _____ (编码: _____)

街道: _____ (编码: _____)

居委会: _____ (编码: _____)

3. 访问员(签名): _____ 代码: _____

4. 一 审(签名): _____

二 审(签名): _____

复 核(签名): _____

5. 访问开始时间: [__|__]月[__|__]日[__|__]时[__|__]分; 结束时间: [__|__]时
[__|__]

(24小时制)(如果分开几段时间执行,请在问卷空白处标注,然后将几段时间加总
为访问长度)

6. 访问总长度: _____ (分钟)

先生/女士/同志: 您好!

我叫_____,是西南财经大学社会学系的调查员。我们正在进行一项社会调查,目的是了解当前成都市人民对包括文化在内的社会生活各方面的一些看法,为政府进行文化建设,转变政府职能提供有益建议。经过严格的科学抽样,我们选中了您作为调查对象。您的合作对我们了解有关信息和制定社会政策,有十分重要的意义。本调查秉承完全自愿的原则,问卷中问题的回答,没有对错之分,您只要根据平时的想法和做法回答就行。对于您的回答,我们将按照《统计法》的规定,严格保密,并且只用于学术分析,不会泄露任何个人信息,请您

入户抽样页

【户抽样】「请问，这里只有您一户住吗？」

是 → 【接被访者抽样】

不是

↳ （我们只需要请其中一户接受访问。请问有多少户住在这里？他们怎样称呼？）

称谓	编号	被访
	1	
	2	
	3	
	4	

1. 住户编号次序：开门者所属住户为1，其余住户依开门者所述顺序依次填其称呼在每户称谓一栏。

2. 用以下之随机表，抽选其中一户访问。

3. 被选编号以彩笔标记的数字为准；若数字不符，则向右继续选取。

随机表

8	2	1	7	7	4	0	6	6	7	2	0	4	5	8	6	7	9	4	3
1	0	0	4	1	9	0	2	7	2	0	2	6	2	8	9	0	2	2	1
3	5	9	6	4	6	8	9	0	3	3	4	7	0	8	8	7	4	6	0
8	8	4	2	0	6	0	5	4	1	6	6	6	9	1	0	6	7	4	3
9	9	6	3	8	7	1	6	9	9	1	2	0	9	8	3	8	6	3	8

【被访者抽样】请问，本周内住在这户，18周岁以上70周岁以下的住户成员，一共多少人？

_____ 无18周岁以上70周岁以下的住户成员 ===== 从本地址所余户中随机另选一户

户 如本地址只有一户 ===== 停止，退出本地址，用备选

_____ 人 ===== 继续询问

请问这些人的生日是？

编号	与户主关系	生日	编号	与户主关系	生日	编号	与户主关系	生日

其中_____ (编号)的生日最接近5月1日。我可以对他/她进行访问吗？

下面开始访问

第一部分: 社会生活, 文化, 历史

我们的生活包含各种方面和人群, 不同的人重视生活中不同的方面。请告诉我以下各项对您有多重要? (1—很不重要, 2—比较不重要, 3—比较重要, 4—很重要)

		很不重要	比较不重要	比较重要	很重要
1)	您的事业	1	2	3	4
2)	您的家庭	1	2	3	4
3)	您的朋友	1	2	3	4
4)	您的邻居	1	2	3	4
5)	您的国家	1	2	3	4

6) 对现在的中国来说, 您认为以下哪一样最重要?

- A) 经济的快速发展
- B) 缩小贫富差距
- C) 人们之间的相互尊重和关爱
- D) 其它, 请说明_____

7) 以下那种说法最接近您的观点?

- A) 政府好比家庭的家长。
- B) 政府好比人民的公仆。
- C) 政府好比公司的管理者。
- D) 其它, 请说明_____

请告诉我您对以下陈述的赞同程度(1—强烈反对, 2—比较反对, 3—中立, 4—比较赞同, 5—强烈赞同)。

		强烈反对	比较反对	中立	比较赞同	强烈赞同
8)	即使父母的要求不合理, 子女也应该顺从。	1	2	3	4	5
9)	单位招聘和考评员工时, 能力应该是的唯一标准。	1	2	3	4	5
10)	当集体利益与个人利益发生冲突时, 个人应该顾全集体利益舍弃个人利益。	1	2	3	4	5
11)	在家中顶撞长辈是可以接受的。	1	2	3	4	5
12)	贫富差距是必然的, 富人和穷人对社会有同等的义务。	1	2	3	4	5
13)	男人在女人手下工作是很没有面子的。	1	2	3	4	5
14)	在工作场合与资历较高的同事发生摩擦是可以接受的。	1	2	3	4	5
15)	牺牲他人利益保全个人的利益是合理的。	1	2	3	4	5
16)	男人和女人在职场上应该拥有同等的机会。	1	2	3	4	5
17)	富人应该比穷人多缴税, 对社会多做贡献。	1	2	3	4	5

我们在生活中总会遇到各种难题，以下是一系列生活中可能遇到的难题。在每个故事中，您对当事人的做法持什么看法？（1—强烈反对，2—比较反对，3—中立，4—比较赞同，5—强烈赞同）

	强烈反对	比较反对	中立	比较赞同	强烈赞同
18) 小李和女朋友分手，原因是					
a. 小李父母反对。	1	2	3	4	5
b. 女朋友阻碍了他事业的发展。	1	2	3	4	5
c. 女朋友反对他参与扶贫活动。	1	2	3	4	5
19) 小陈在一家大公司工作，他利用职务之便帮助某求职者该公司谋到一个职位，尽管当时有另一位更优秀的应聘者，原因是					
a. 应母亲的要求——求职者是他表哥。	1	2	3	4	5
b. 为了提高业绩——求职者是大客户的亲戚。	1	2	3	4	5
c. 求职者家庭经济困难。					
20) 小黄在某地方政府工作，他对某企业网开一面，没有严格追究其手续上的缺陷，原因是	1	2	3	4	5
a. 应母亲的要求——企业主是家中亲戚。	1	2	3	4	5
b. 该企业创造了大量税收和就业机会。	1	2	3	4	5
c. 该企业是经济困难的小型集体所有企业。					

人们常常用各种节日、艺术作品（比如小说，电影，电视剧，等等），场馆（比如纪念碑，纪念馆，博物馆，等等）来展示和纪念历史。下面列举了中国历史上的一些时期和事件，您觉得每一个有多需要被纪念？（1—完全不值得，2—比较不值得，3—比较值得，4—非常值得，5—不了解）

	完全不需要	比较不需要	比较需要	非常需要	不了解
21) 史前时期（夏朝以前）	1	2	3	4	5
22) 奴隶制王朝（夏，商，周和春秋时期）	1	2	3	4	5
23) 封建王朝（秦至明清）	1	2	3	4	5
24) 鸦片战争	1	2	3	4	5
25) 辛亥革命	1	2	3	4	5
26) 民国时期（1912-1949）	1	2	3	4	5
27) 五四运动	1	2	3	4	5

28)	抗日战争	1	2	3	4	5
29)	解放战争	1	2	3	4	5
30)	中华人民共和国 初期 (1949-1979)	1	2	3	4	5
31)	改革开放时期 (1979 至今)	1	2	3	4	5

32) 中国历史上发生了很多重大的事件和变化，请列举其中一到两件您认为最为重要历史事件或变化：

a. _____

b. _____

请简单描述您选择这些事件/变化的原因：

a. _____

b. _____

33) 中华人民共和国成立以后发生很多重大事件的和变化，请列举一到两件这一时期内您认为最为重要历史事件或变化：

a. _____

b. _____

请简单描述您选择这些事件/变化的原因：

a. _____

b. _____

34) 您觉得中国历史上最伟大的政治领袖是？ _____

35) 您觉得中国历史上最伟大的思想家是？ _____

第二部分：法律

36) 以下那种说法最接近您的观点？

- A) 法律好比家族的家规。
- B) 法律是人民集体意志的体现。
- C) 法律是公民与政府之间的合约。
- D) 其它，请说明_____

人们对法律的作用有不同看法，以下问题涉及您对这个话题的看法。请告诉我您对以下陈述的赞同程度？（1—强烈反对，2—比较反对，3—中立，4—比较赞同，5—强烈赞同）

	强烈 反对	比较 反对	中立	比较 赞同	强烈 赞同
37) 好的法律应该产生公正的结果。	1	2	3	4	5
38) 好的法律应该是严格符合逻辑且没有漏洞的。	1	2	3	4	5
39) 好的法律应当严格规范商品市场中的交易规则和行为。	1	2	3	4	5
40) 好的法律应该符合中国的传统文化。	1	2	3	4	5
41) 优良的执法应该优先考虑弱势群体的利益。	1	2	3	4	5
42) 优良的执法应该人性化。	1	2	3	4	5
43) 不管结果如何，优良的执法总是应该严格遵循法定的程序。	1	2	3	4	5

人们对法院应当如何开展工作有不同的看法。以下情形中，您对法院做法持什么观点？（1—强烈反对，2—比较反对，3—中立，4—比较赞同，5—强烈赞同）

	强烈 反对	比较 反对	中立	比较 赞同	强烈 赞同
44) 在某刑事案件审判中，检察官出示了足够的证据证明被告有罪，但某关键证据来源不合法，法院因此宣告被告无罪，尽管各种迹象证明该被告确实有罪。	1	2	3	4	5
45) 在某谋杀案审判过程中，法院在做出判决前以问卷调查的方式询问并参考了在场旁听群众对案件的意见。	1	2	3	4	5
46) 在对某黑社会头目的审判中，最高人民法院在没有接到上诉的情况下，直接重审了案件，修改了地方法院的判决，将被告判处死刑，理由为该罪犯对人民群众危害极大，地方法院量刑过轻。	1	2	3	4	5

人们有不同的方式处理生活中遇到的困难和冲突。下面我们为您提供四个冲突的情境，在每种情况下，假设您都已经尝试与对方沟通但问题没有得到解决，您最有可能 a) 妥协；b) 请相关的第三方进行非正式的调解；c) 报警，d) 将问题反应到相关政府部门；还是 e) 将案件起诉到法院？

妥协	第三方	报警	政府部门	法院	其他
----	-----	----	------	----	----

47) 某政府工作人员不合理的对你进行了 5000 元的罚款并拒绝纠正其错误。	a	b	c	d	e
48) 某生意合作伙伴上次交易后拖欠了 5000 元货款并拒绝偿还。	a	b	c	d	e
49) 你的妻弟借了你 5000 元后拒绝偿还	a	b	c	d	e
50) 你被邻居的狗咬伤, 花费了 5000 元医治, 邻居拒不承担该笔款项。	a	b	c	d	e

您觉得以下各种行为在多大程度上违背了我们社会的核心价值 ? (1—完全不违背, 2—不怎么违背, 3—比较违背, 4—严重违背)

	完全不违背	不怎么违背	比较违背	严重违背
51) 下载盗版电影和歌曲	1	2	3	4
52) 在知情的情况下购买被盗的自行车	1	2	3	4
53) 私接水管电线, 将公家水电接到家中	1	2	3	4
54) 贿赂法官以试图改变案件结果	1	2	3	4
55) 逃税	1	2	3	4
56) 超生	1	2	3	4
57) 没有合法手续在公共场合游行/抗议	1	2	3	4
58) 父母不抚养未成年子女	1	2	3	4
59) 违规摆摊设点	1	2	3	4
60) 成年子女不赡养父母	1	2	3	4

一个像您一样的人, 如果她/他做了以下的事, 您觉得有多大可能他/她会被抓到且受到法律的惩罚? (1—完全不可能, 2—不大可能, 3—一半一半, 4—很可能, 5—一定会)

	不可能	不大可能	一半	很可能	一定会
61) 下载盗版电影和歌曲	1	2	3	4	5
62) 在知情的情况下购买被盗的自行车	1	2	3	4	5
63) 私接水管电线, 将公家水电接到家中	1	2	3	4	5
64) 贿赂法官以试图改变案件结果	1	2	3	4	5
65) 逃税	1	2	3	4	5
66) 超生	1	2	3	4	5
67) 没有合法手续在公共场合游行/抗议	1	2	3	4	5
68) 父母不抚养未成年子女	1	2	3	4	5
69) 违规摆摊设点	1	2	3	4	5
70) 成年子女不赡养父母	1	2	3	4	5

一个像您一样的人, 如果具备以下所问问题的条件和机会, 可能会做这些事么? (1—完全不可能, 2—不大可能, 3—一半一半, 4—很可能, 5—一定会)

	不可能	不大可能	一半	很可能	一定会
71) 下载盗版电影和歌曲	1	2	3	4	5

72)	在知情的情况下购买被盗的自行车	1	2	3	4	5
73)	私接水管电线，将公家水电接到家中	1	2	3	4	5
74)	贿赂法官以试图改变案件结果	1	2	3	4	5
75)	逃税	1	2	3	4	5
76)	超生	1	2	3	4	5
77)	没有合法手续在公共场合游行/抗议	1	2	3	4	5
78)	父母不抚养未成年子女	1	2	3	4	5
79)	违规摆摊设点	1	2	3	4	5
80)	成年子女不赡养父母	1	2	3	4	5

接下来我想询问一下您过去五年中在成都当地法院的经历。

81) 在过去的五年中，您作为被告或原告出席过成都当地法院审理的案件么？

- A) 有
- B) 没有

82) 在过去的五年中，您到过成都当地法院作证或观察别人案件的审理么？

- A) 有
- B) 没有

83) 在过去的五年中，您与成都法院有过其他任何形式的接触么？

- A) 有→怎样接触的？_____
- B) 没有

81)-83) 答案均为 B: 跳过本部分余下问题，转至本卷第三部分

84) 在过去的五年中，您与成都法院有过几次接触？

- A) 一次
- B) 多次

85) 在这次经历中，您的角色是：

- A) 原告或被告（询问 86-92 所有题目）
- B) 证人（跳过第 90 题）
- C) 其他，请说明_____（跳过 86 和 90 题）

请告诉我您对以下陈述的赞同程度(1—强烈反对，2—比较反对，3—中立，4—比较赞同，5—强烈赞同)。

	强烈 反对	比较 反对	中立	比较 赞同	强烈 赞同
86) 我得到了陈述自己观点的机会。(85 为 C 则跳过)	1	2	3	4	5
87) 法官很称职。	1	2	3	4	5
88) 法官很有礼貌。	1	2	3	4	5
89) 法官很公正。	1	2	3	4	5
90) 我对案件结果很满意。(85 为 B 或 C 则跳过)	1	2	3	4	5

91) 将来若遇到类似情况我会通过法院解决。	1	2	3	4	5
92) 若我的亲戚朋友遇到类似情况，我会建议他们去法院。	1	2	3	4	5

第三部分：家庭基本情况

最后一个部分，还有几分钟就结束了。现在我想询问一些您和您家庭的背景情况。您的答案将对除本课题研究人员外的任何人保密。

93) (调查员填写) 被访者性别: A) 男; B) 女

94) 您的出生年份是? _____

95) 您的民族是? _____

96) 您是成都本地人么?

A) 是 (跳过 97 题)

B) 不是

97) 您是四川人么?

A) 是

B) 不是

98) 您的户籍状态是?

H) 本地非农; B) 本地农业; C) 外地非农; D) 外地农业

F) 其他, 请说明 _____

99) 您最近三个月的主要就业状态是?

H) 全职

I) 兼职

J) 临时工

K) 务农

L) 在读学生 (跳到 103)

M) 无业 (跳到 103)

N) 其他, 请说明 _____

100) 您的职业是 (请尽量详细, 回答主要工作的具体行业、职位和职责)?

101) 您工作单位的类型是?

H) 党政机关

I) 国有企事业单位

J) 集体企事业单位

K) 个体户

L) 私营企业

M) 外资企业

N) 其他, 请说明 _____

102) 上个月您本人的收入是 _____ (元)

103) 您的政治面貌是?

E) 共产党员

F) 共青团员

G) 民主党派成员

H) 群众

以下家庭成员的接受正规教育的年数是？

	接受正规 教育年数
104) 本人	
105) 父亲	
106) 母亲	
107) 配偶	

以下家庭成员的最高学位是？（1—低于小学，2—小学毕业，3—初中毕业，4—高中毕业或同等学历，5—大专毕业，6—本科毕业，7—硕士毕业或更高）

	低于小学	小学	初中	高中	大专	本科	硕士及以上
108) 本人	1	2	3	4	5	6	7
109) 父亲	1	2	3	4	5	6	7
110) 母亲	1	2	3	4	5	6	7
111) 配偶	1	2	3	4	5	6	7

112) 上个月（2012年4月）您全家（包括您本人，您的配偶以及与您同住的父母和子女）总共的消费是（包括所有非投资性质的开销，比如房租，房贷，水电费，食物，衣物，交通，医疗，保险，旅游休闲，学费，等等）_____ 元

113) 2011年您全家的年收入总共是（包括工资，所有奖金，补贴，股息，分红，商业净收入，存款利息，亲友资助，等等）_____（万元）

114) 根据您家在2011年的收入和支出，与本地区的其他家庭比较，您认为您家庭的生活水平属于以下哪个层次？

- A) 上层
- B) 中上层
- C) 中层
- D) 中下层
- E) 下层
- F) 其它。请说明_____

115) 您的婚姻状况是：

- A) 单身
- B) 同居
- C) 已婚
- D) 分居
- E) 离婚
- F) 丧偶

116) 您同意研究人员将来联系您以进行后续的采访么？

- A) 同意。请留下您最可靠的联系方式：

- B) _____
- C) 不同意.

感谢您的参与和合作!