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Stability justice: Petitioners versus non-petitioners in China's criminal adjudication

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Abstract
Different from "judicial repression," stability justice targets ordinary individuals under the guise of formal judicial procedures, to maintain both social stability and governance legitimacy. Drawing on published judgments and the authors' interviews with judges and prosecutors in China, we find that, in conjunction with the gradual abandonment of traditional violent repression strategies, stability justice has been employed as an alternative tool for managing petitioning activities at the local level. Through the covertly biased application of legal rules and procedural norms, petitioners accused of threatening social stability receive longer terms of pre-trial detention, higher rates of detention before politically sensitive periods, longer custodial sentences, and fewer opportunities for probation. Our findings add new fuel to studies on comparative judicial politics and shed light on judicial behavior in contemporary China.

INTRODUCTION

Although the law and the courts have been playing an increasingly important role in authoritarian regimes over the past decade (Ginsburg & Moustafa, 2008; Moustafa, 2014), judicial processes in these states have routinely been depicted as repression (Cheesman, 2015; Cross, 1999; Escribà-Folch, 2013; Rajah, 2012; Trevaskes & Nesossi, 2017; Youngers, 2000). In Putin's Russia, for example, the regime employs charges of tax evasion against business oligarchs who finance opposition groups (Bækken, 2018; Goldman, 2010). In Kazakhstan, the ruler used prolonged criminal prosecutions and lengthy prison sentences to keep opposition leaders in custody (LaPorte, 2017). In Croatia, the regimes used defamation and libel laws to silence political dissidents on media outlets (Pusic, 1998). In Malaysia, Malawi, and Ukraine, government chiefs, for the purpose of consolidating their political power, launched criminal prosecutions for corruption against their political rivals (Darden, 2008).

As illustrated in existing studies, judicial processes have been employed to penalize political rivals (Felker, 2000; LaPorte, 2017), to persecute political dissidents (Davenport, 2014; Oliver, 2008), to legitimize the usurpation of political power (Levitsky & Way, 2010; Rajah, 2012), and to ensnare competitors inside the ruling political party (Posner, 2005; Shen-Bayh, 2018). Levitsky and Way (2010, p. 9) define tactics of this type broadly as "legal repression," by which they mean "the discretionary use of legal

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instruments … to punish (political) opponents." Shen-Bayh (2018, p. 330) uses "judicial repression" to describe the repression of political challengers through the courts, and she further points out that judicial repression deals more effective with internal threats than with external threats.

While much scholarly attention has been devoted to the judicial repression of political opponents, whether and how judicial processes are employed to repress ordinary individuals have not been studied in such depth. Unlike political rivals and dissidents, who are close to the center of power, common people are peripheral to power and seldom claim political rights. When they mobilize, their main objective is economic benefit (Feng & He, 2018; Liebman, 2011; Minzner, 2006). Although some of them may employ disruptive tactics or engage in mass events to have their voices heard, they seldom join organizations or threaten political elites (Feng & He, 2018). They can therefore be distinguished from the typical targets of judicial repression, who pose a direct threat to the regime. For this reason, the authorities are unlikely to exercise judicial repression on ordinary civilians, at least in the same way as they do on "opponents" or "political challengers." In fact, conventional wisdom indicates that the authorities in authoritarian regimes are more inclined to set the law and the courts aside and employ extralegal repression strategies as they manage the social disturbance caused by ordinary individuals (see e.g., Lee & Zhang, 2015; O'Brien & Li, 2006).

Drawing on evidence from Chinese courts, this article proposes that there is an emerging pattern of social management in China—stability justice—that rests on criminal procedures to contain and deter disruptive claimants of citizens' rights while maintaining governance legitimacy. Stability justice is distinguished from Levitsky and Way's (2010, p. 9) "legal repression" and Shen-Bayh's (2018, p. 330) "judicial repression," both of which normally target political dissidents or rivals. In the cases described here, stability justice targets common folk instead of political enemies, and is thus subtle and covert. Judicial proceedings are employed not as a weapon to torture, punish, or eliminate enemies, but as a tool for social control. The main goal is to achieve social stability. Stability maintenance has also been repeatedly mentioned in the literature on Chinese courts and China's legal system (see e.g., He, 2014; Liebman, 2011; Peerenboom, 2011). However, rarely studies have dwelled into how this policy affects case outcomes empirically.

Our findings should provide new insights into the changing significance of the law and the courts in authoritarian regimes (Ginsburg & Moustafa, 2008; Moustafa, 2014). As recent studies on authoritarian resilience point out, social control in authoritarian regimes is gradually turning from violent repression that terrorizes citizens into submission to subtler means, such as informational control (Guriev & Treisman, 2019) or the production of moral order (Tsai, 2021). This article adds new fuel to this line of discussion by illustrating that judicial processes provide another meaningful alternative to violent repression, as they are not only subtler but also more legitimate. This article also contributes to studies on both comparative judicial politics and Chinese judicial behaviors by presenting relatively new and solid empirical evidence. Previous studies in these fields have mostly drawn on news reports, selective cases, and narratives of third parties. This article tries to use nationwide individual-level data to evaluate whether and how judicial processes repress civic rights claimants, which should provide strong evidence for some classic knowledge that scholars in these fields have previously obtained anecdotally.

In the following sections, we first develop our theoretical framework by analyzing the mechanism of stability justice as a tool for social control. Second, we illustrate the ways in which stability justice is being exercised against Chinese petitioners, and then we propose our hypotheses about how some petitioners come under covert biases in criminal procedures. Third, we test our hypotheses through a statistical analysis of the published judgments on "picking quarrels and provoking trouble," which is the most common criminal accusation made against petitioners. In the concluding part, we discuss the implications of stability justice.

STABILITY JUSTICE

In this article, stability justice refers to the tactics carried out, via formal judicial procedures with reference to the law, for social control purposes, such as containing citizens' rights claimants who are accused of threatening social stability, and deterring socially disruptive activities. Typical strategies

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of stability justice in criminal adjudication include: the selective application of criminal statutes, discretionary detention and custody, and severe penalties. While all decisions are made with reference to the law, these legal tactics may incorporate both procedural and distributive biases in ways that are hard to detect in individual cases.

Stability justice as a tool for social control

In practice, stability justice is mainly employed as a tool for social control. It is embedded in China's long-standing national policy of maintaining social stability. From the Hu Jintao era (2003–2013) to the Xi Jinping era (2013-now), the elimination of social disturbance and social unrest has been regarded as of paramount concern in state governance and social management. To get their voices heard, however, some rights claimants inevitably employ tactics that operate near the boundary of the authorized channels, causing varying degrees of social disturbance and posing a threat to social stability (O'Brien & Li, 2006). Under the top-down system for responsibility, which aims to resolve disputes at grassroots level and to avoid dispute escalation, Chinese authorities at various levels are motivated to employ all available means to eliminate the problems caused by these rights claimants before they reach senior authorities.[1] Some authorities used to rely on violent and extralegal means of repression to manage these problems (Hou, 2012; Yu, 2005).

Since the 2010s, a new mode of social management has been emerging in China, owing to the evolving power relations between the common people and the state authorities. On the one hand, the past decade has witnessed substantial changes in the social control policies of the Chinese Communist Party (CCP). The CCP has officially mandated restrictions on, and the partial abolishment of, the use of violent repression strategies in social control, with the purpose of pushing forward law-based governance and enhancing governance legitimacy.[2] For example, the infamous re-education through labor system, which was a frequently used mechanism to detain "citizen trouble-makers," was abolished in December 2013, and all the detainees were immediately released.[3] Although some empirical evidence indicates the continued existence of extralegal repression strategies at grassroots level (Fu & Distelhorst, 2017; Steinhardt, 2021; Truex, 2019), the regime has become more cautious over the use of violence in its governance (Tsai, 2021).

On the other hand, there is an awakening of a consciousness of rights among ordinary Chinese people. Accompanied by social and economic development, ordinary people can easily access laws and central policies on the Internet, and, accordingly, have become more inclined to struggle for their rights with reference to the law (Gallagher, 2017). The development of social media and online communication platforms such as *Weibo* and *TikTok* (*Douyin*) has provided people with a new channel for voicing their grievances and gaining public attention. Chinese authorities have also become increasingly aware of the risk that their improper use of extralegal repression strategies can easily hit the headlines on the Internet and lead to political consequences.

Faced with the changing political climate and the evolving social context, some authorities have turned to modest extralegal methods to contain discontent and maintain social stability, since violent repression is more likely to backfire and lead to sanctions from senior authorities (cf. Dobson, 2012; Sullivan, 2016). Scholars have noticed the use of relational repression (Deng & O'Brien, 2013; O'Brien & Deng, 2017),[4] bureaucratic absorption (Chuang, 2014; Lee & Zhang, 2015),[5] informational autocracy (Guriev &

[1]See Communiqué of the Fourth Plenary Session of the 19th Central Committee of the Communist Party of China, promulgated in 2019, available at http://www.xinhuanet.com/politics/2019-10/31/c_1125178024.htm (accessed August 20, 2021).
[2]See "The Resolution of the CCP Central Committee on Certain Major Issues Concerning Comprehensively Advancing the Law-Based Governance of China," promulgated in 2014.
[3]The system of re-education through labor, known as *laojiao zhidu*, empowered public security organs to send a person to prison and forced labor without a formal trial for a maximum of 4 years. The system dated back to the 1950s and was officially abolished on December 28, 2013.
[4]Relational repression refers to the strategy of containing the rights claimants by seeking support from their relatives, particularly the relatives who work in government agencies.

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Treisman, 2019; King et al., 2013; Roberts, 2018),[6] infiltration and persuasion (Greitens & Truex, 2020; Mattingly, 2019; Wang, 2015),[7] and emotional mobilization (Hou, 2019; Hu & Tong, 2020).[8]

The modest extralegal strategies mentioned above are able to solve problems, but they may become ineffective on those occasions that demand swift and coercive resolution. In Hu and Tong's (2020) research on emotional mobilization, for example, petitioning social workers in Shanghai spent years establishing emotional ties with Chinese veterans who were claiming pensions and social welfare. They finally reached a consensus, but this strategy succeeded because the veterans, a highly organized group with a strong sense of honor and patriotism, trusted in the government and were willing to solve their problems through lengthy negotiations. Their protests, which served the purpose of taking the upper hand at the negotiating table, were organized and self-restrained. By comparison, common disputants may lack patience and confidence in state authorities and government cadres, which undermines the probability of reaching consensus (O'Brien & Li, 2006). Their activities are less stable and predictable than organized petitioning groups, which increases the risk of modest strategies being implemented (Feng & He, 2018). Therefore, as a supplement to the use of modest social control strategies, some authorities find it necessary to use forceful means of social control as a substitute for the violent repression that has now been officially discouraged, with the purpose of eliminating social disturbances swiftly and effectively.

It is in the above circumstances that stability justice, which has turned judicial processes into a tool for social control, is used. In sharp contrast to either the abolished means of violent repression or the modest extralegal strategies, stability justice contain discontent and deter social disturbance in a swift and coercive manner without seriously infringing upon the regime's legitimacy and resilience (cf. Nathan, 2003; Rajah, 2012). As Moustafa (2014, p. 286) points out, while authoritarian regimes "typically pin their legitimacy to the achievement of substantive outcomes, … they also attempt to make up for questionable procedural legitimacy by preserving judicial institutions." Although Chinese courts have traditionally been regarded as politically embedded institutions (Ng & He, 2017), recent empirical studies report growing support for the judiciary among ordinary people since the implementation of the post-2014 judicial reforms (Feng, 2020; He & Feng, 2021; Liebman, 2014).[9] In the minds of ordinary people, the decisions made in judicial proceedings are more trustworthy than those made through extralegal channels (Gallagher, 2017; Whiting, 2017). Stability justice is thus able to achieve social control purposes through what appear to be due procedures.

Stability justice versus judicial/legal repression

Despite its innate repressiveness over the threats to social stability, stability justice is distinguished from the classic notions of "judicial repression" (Posner, 2005; Shen-Bayh, 2018) and "legal repression" (Levitsky & Way, 2010, p. 9). As is well illustrated in existing studies, judicial (legal) repression normally targets political enemies and is mostly unlawful. Although the law is selectively employed, law enforcement organs are actually turning against the formal law to enforce the will of the

[5]Bureaucratic absorption refers to the strategy of soliciting potentially disruptive rights claimants and trouble makers to join the bureaucratic system.

[6]Informational autocracy refers to the strategy of pacifying social disturbance through information control, such as censoring online posts or creating public opinions.

[7]Infiltration refers to the strategy of controlling certain members of the discontented group so to acquire information and exert control; persuasion refers to the strategy of pacifying the rights claimants through repeated communication.

[8]Emotional mobilization refers to the strategy of containing the discontent by establishing emotional ties with the rights claimants.

[9]Since 2014, the Supreme People's Court has implemented a serious of judicial reforms with the purpose of enhancing judicial professionalism and eliminating undue interference. Some of the major reform measures include: (1) the judicial quota reform, which reduces the number of judges to at most 39% of the pre-reform quota, with the purpose of improving the professional quality and the social and economic status of judges; (2) classified management of court staff, distinguishing the personnel system for judges from the personnel system for non-judicial staff, in order to eliminate undue administrative interference with judges; and (3) the judicial responsibility system, which mandates judges to take life-long responsibilities for certain types of wrongful judgments. For more details of the reforms, please refer to the Fourth Five-Year Reform Outline of the People's Court (2014–2018), available at http://www.court.gov.cn/zixun-xiangqing-13520.html (accessed October 9, 2021).

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autocratic rulers (Levitsky & Way, 2010; see also, Davenport, 2014; Earl, 2011; LaPorte, 2017; Oliver, 2008; Shen-Bayh, 2018). Truex's (2019) research on preemptive detention, for example, showed that political dissidents in China were more likely to be detained shortly before or during politically sensitive periods and were released shortly after the end of those periods (see also Steinhardt, 2021). Although all decisions on detention and release are supposed to be made with reference to the law, such a "catch-and-release" dynamic indicates a hollow implementation of legal procedures and an overt disregard for the law.

In contrast to repression, stability justice is a more formal type of justice. It mainly targets claimants to individual rights and interests, and it is achieved through the technically correct application of the law. While citizens' rights claimants may cause social problems, they are peripheral to power and seldom claim political rights. Accordingly, since these people and their problems are no threat to their rule, the authorities have incentives to respect the rule of law and judicial fairness (Wang, 2014). Therefore, stability justice is subtle, covert, and relatively modest in practice, and all decisions are made through set procedures with reference to the law.

In the eyes of the general public, stability justice looks similar to run-of-the-mill judicial behavior. Strong evidence of repression is hard to see in any particular case. That is why the results of stability justice are more likely to convince people than the results of extralegal or violent repression. As will be illustrated in this article, however, large *N* analyses of the subjects of stability justice reveal that they may suffer from structural biases in both procedural and distributive aspects, when compared with common litigants. This is not merely a consequence of a lack of litigation ability or party resources (cf. Galanter, 1974; He & Yang, 2013). Through the selective enforcement of the law and the tactical use of judicial discretion, defendants from designated groups may receive biased treatment, such as longer detention or heavier penalties than usual. By employing stability justice, the authorities are able to contain particular groups of individuals, eliminate social problems in an efficient and effective manner, and enhance their authority as rule makers, while, most importantly, avoiding the risk of damaging their governance legitimacy.

PETITIONERS VERSUS NON-PETITIONERS IN CRIMINAL JUSTICE

Employing stability justice to manage petitioning

To illustrate the mechanism of stability justice, we focus on the way in which grassroots authorities manage petitioning in China. Petitioning, known as *shangfang* or *xinfang*, refers to "an effort to go past basic-level institutions to reach higher-level bodies, express problems and request their resolution" (Minzner, 2006, p. 103).[10] As a controversial and yet widely used administrative remedy (Ying, 2004), petitioning has become a social phenomenon in China. It is estimated that the Chinese government at all levels and the official offices for receiving petitions receive more than 10 million petitions annually (Yang, 2017). To get their voices heard, some petitioners have turned their complaints into "a populist threat" to authority (Liebman, 2011, p. 269). They petition repeatedly for years or even decades to achieve their goals (Yu, 2005); they employ disruptive tactics and frame their disputes as political problems to get their complaints treated seriously (Feng & He, 2018); and they flock to Beijing, the national capital, during political events or times of leadership turnover for an opportunity to attract attention at a senior level and to exert pressure on local authorities (Li et al., 2012).

In the Chinese petitioning system, the central government and the local authorities have distinct goals as they manage petitioning. While the central government may tolerate petitioning for the purpose of collecting local information and getting to grips with social problems, lower-level authorities

[10]Petitioners are mostly ordinary individuals with limited access to rights remedy. The vast majority of the petitioners are not Party members, who may otherwise pursue complaints through intra-party mechanisms, such as the discipline inspection system.

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are generally more inclined to eliminate petitioning as petitioning activities cause embarrassment at higher levels (Feng & He, 2018; Hou, 2012). Grassroots authorities are the main forces that manage petitioning in China. Embedded in a top-down system of responsibility, they are motivated to employ all available means to eliminate petitioning at grassroots level and avoid the escalation of disputes (Cai, 2008; Landry, 2008; Liao & Tsai, 2019). While petitioning remains a prominent social phenomenon, the way in which Chinese authorities manage it has undergone radical changes over the past decade. Grassroots authorities used to control petitioning activities through violent and extralegal means (Yu, 2005). In 2014, the CCP promulgated "The Resolution of the CCP Central Committee on Certain Major Issues Concerning Comprehensively Advancing the Law-Based Governance of China," in which "bringing petitioning into the rule of law framework" was officially declared to be national policy.[11] Meanwhile, re-education through labor, and other unlawful means for repressing petitioning, were officially abolished.[12] Judicial processes gradually came to be employed as an alternative way of managing the "populist threat" of petitioning activities.

Dealing with cases involving petitioners, the courts could hardly ignore the social control objectives of the government. Although the government has, since the 2010s, been officially deprived of the power to interfere with the courts' finance and personnel arrangements, basic-level courts remain an integral part of the local social management system (He, 2021a; Zhang & Ginsburg, 2019). Embedded in the local social and bureaucratic networks, judges cannot easily avoid interference from local government cadres. In practice, local government chiefs may draw on either their administrative authority or their personal connections, and delegate to the leaders of the grassroots courts the task of containing petitioners who are accused of threatening social stability; the court leaders are normally willing to help, in exchange for the support of the local administrative power and the favor of local government cadres.[13]

Consequently, there has been a growing tendency in recent years for grassroots courts to manage petitioners through stability justice. As Wang and Liu (2017) pointed out in their research on adjudication committees in China's basic-level courts, a common purpose of judicial decision-making at the grassroots level is to mediate in conflicts between legal and political concerns, and thus to figure out resolutions that are acceptable to the government while not contradicting the law. In the management of petitioning, stability justice is regarded as a "balanced" resolution, since it achieves local governments' objective of maintaining stability, within the legal framework.

Accordingly, the number of criminal accusations against petitioners climbs quickly at grassroots level in recent years. The statistics of China Judgments Online, which is the official website for judicial disclosure, indicate that the number of criminal cases associated with petitioning almost doubled from 2014 through 2018.[14] Among all the published cases involving petitioner defendants, 91.9% of the cases were adjudicated in the trial courts, 7.8% in the intermediate courts, and merely 0.3% in the high courts.[15] No case reached the Supreme People's Court.

Accusing petitioners of picking quarrels and provoking trouble

Given the difficulty of comparing the sentences meted out to people charged with different crimes, we focus on the crime of picking quarrels and provoking trouble (*xunxinzishizui*). Picking quarrels and provoking trouble is the most common criminal accusation against a petitioner in China.[16] According

[11]Article 5(4): "To incorporate resolution of letters and visits into the rule of law framework, and to guarantee that reasonable and lawful claims, which are addressed in accordance with legal provisions and procedures, obtain reasonable and lawful results."

[12]See "Opinions on Handling Law-related Petitions according to the Law," promulgated by the General Office of the CCP Central Committee and General Office of the State Council in 2014.

[13]Authors' interviews with grassroots court presidents and government cadres in 2021.

[14]A total of 11,518 judicial decisions in criminal cases contain the keyword *shangfang* or *xinfang* (petitioning) in the alleged facts, including 1689 cases in 2014, 1369 in 2015, 2284 in 2016, 2801 in 2017, and 3375 in 2018. The statistics may change slightly over time, as some of the published documents may be withdrawn for technical reasons. See China Judgments Online, available at http://wenshu.court.gov.cn (accessed October 28, 2021).

[15]More than 95% of these cases in the intermediate and high courts are appeal cases.

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to Article 293 of the PRC Criminal Law, the crime of picking quarrels and provoking trouble encompasses the following actions: (1) beating another person at will and to a flagrant extent; (2) chasing, intimidating, or hurling insults at another person to a flagrant extent; (3) forcibly taking or demanding, or willfully damaging, destroying, or occupying, public or private money or property to a flagrant extent; or (4) rampaging in a public place, thus causing serious disorder in such place.

Originating from the crime of hooliganism (*liumangzui*) in the 1979 Criminal Law,[17] the offense of picking quarrels and provoking trouble was first enacted in the 1997 Criminal Law for the purpose of punishing hooligans and bullies who intentionally harass people for no justifiable reason (Chen, 2015). Dubbed a "pocket statute," however, it has been criticized for its over-general scope and ambiguous terminology (Zhang, 2015, p. 3). In particular, there are no undisputed definitions of the core concepts of "intimidating," "taking," or "rampaging." Nor do we know exactly what constitutes "a flagrant extent." Although the Supreme People's Court and the Supreme People's Procuratorate issued a judicial interpretation in 2013 to narrow the scope of the statute,[18] the answers to these questions remain vague and, in practice, depend largely on the discretion of prosecutors and judges (Zhao & Peng, 2015). Given its vagueness, this crime has frequently been associated with petitioning strategies and is accordingly employed to carry out stability justice.

While the accusation of picking quarrels and provoking trouble may lead to a harsh punishment for a petitioner, it does not repress petitioners in an overt manner. In the traditional means of repression, the officials of grassroots authorities held the power to contain petitioners without justifiable cause or procedure. Take re-education through labor, for example. Petitioners could be sentenced to a maximum of 4 years' forced labor for no other reason than that they had petitioned the central institutions in Beijing, even though petitioning Beijing was not a violation of the law (Hou, 2012; Yu, 2005). There used to be no due procedure for decision-making, either. The decisions were made by the police through administrative procedures.[19]

By making an accusation of picking quarrels and provoking trouble, by contrast, an authority is trying to establish a legal basis and a due procedure for its decisions. To hold a petitioner in custody, the police have to follow arrest procedures and seek approval from the procuratorate; to declare a petitioner guilty, a formal trial is mandatory; and to sentence a petitioner to fixed-term imprisonment, the decision must be made with reference to the criminal law under the principle of *nulla poena sine lege* (*zuixingfading*) (Chen, 2015). This is in sharp contrast to the cases of re-education through labor, in which many petitioners were sanctioned purely for petitioning, in an arbitrary decision-making process. By introducing legal rules and procedures into the management of petitioning, the authorities have enhanced their governance legitimacy.

The apparent legitimacy of the criminal procedures is, however, undermined by covert biases in both the procedural and the distributive aspects. Drawing on our interviews with Chinese judges and prosecutors in 2019 and 2020,[20] we have found that some grassroots courts have deliberately been

[16]Among all the published cases involving petitioners on China Judgments Online, picking quarrels and provoking trouble (*xunxinzishi*) accounts for more than 26% of the judicial decisions, followed by blackmail (*qiaozha lesuo*) at 9%, intentional assault (*guyi shanghai*) at 6%, and a broad range of other crimes with a small percentage share each.

[17]The crime of hooliganism was set out in Article 160 of the 1979 Criminal Law. According to this article, anyone who engaged in mass fighting, created a disturbance, insulted women, or conducted any other activities of a hooligan, thus disrupting the social order, was to be sentenced to imprisonment for a fixed term of not more than 7 years. In the 1983 criminal striking campaign (*yanda*), the most severe penalty for this crime was raised to the death penalty. In 1997, the crime of hooliganism was replaced by a new crime of picking quarrels and provoking trouble.

[18]See "Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Handling Criminal Cases of Creating Disturbance," available at http://www.court.gov.cn/fabu-xiangqing-5572.html (accessed July 5, 2019).

[19]See "Supplementary Provisions on Re-education through Labor of the State Council," promulgated in 1979 and abolished in 2013.

[20]In 2019, we requested in-depth interviews with 22 experienced criminal judges (one Supreme People's Court judge, three high court judges, six intermediate court judges and 12 trial court judges). In 2020, we conducted another round of interviews, and 11 prosecutors (two at provincial level, three at municipal level, and six at grassroots level) agreed to provide information. Each interview lasted between 20 min and 2 h. To make our interviewees feel comfortable, recordings were not used during our empirical work. Instead, we took notes when this was feasible, but otherwise we memorized important details and recorded them in notebooks as soon as possible after the interview. Because of the sensitive nature of this topic, it was difficult for us to get detailed evidence from our interviewees, despite gaining their trust through cooperation in previous research projects. Therefore, we are mainly relying here on the statistical analysis of published documents.

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reproducing these biases to contain "trouble-makers" and deter certain disruptive petitioning strategies that may threaten social stability.

On the procedural aspect, some courts have employed pre-trial detention (*jiya*) to control petitioners. Pre-trial detention is a type of coercive criminal measure that is used to hold a suspect in custody for the purpose of investigating their alleged criminal offenses. Although Article 154 of the Criminal Procedural Law of the PRC stipulates that the term of pre-trial detention should not exceed 2 months, the procuratorate retains the discretion to grant an extension in "major and complex cases."[21] To prevent petitioners from carrying on their petitioning activities, the authorities are motivated to impose longer terms of pre-trial detention on them. The hypothesis that derives from the discre use of pre-trial detention is as follows:

> **Hypothesis 1.** Petitioner defendants receive longer terms of pre-trial detention than non-petitioner defendants, ceteris paribus.

Since pre-trial detention requires merely preliminary evidence of an alleged criminal offense, it has sometimes been used as a technically lawful tool to deprive petitioners temporarily of their personal freedom during certain periods.[22] Compared to routine practice in ordinary times, the authorities have a heavier burden of maintaining social stability during politically sensitive periods—that is, periods when significant social or political events are taking place. As these periods draw close, the authorities are more inclined to hold petitioners in custody through pre-trial detention (Steinhardt, 2021; Truex, 2019). We thus expect:

> **Hypothesis 2.** Petitioner defendants are more likely than non-petitioner defendants to be detained before a politically sensitive period.

On the distributive aspect, petitioners also suffer from covert biases. The routine sentences for picking quarrels and provoking trouble include fixed-term imprisonment,[23] criminal detention,[24] and community correction.[25] Both fixed-term imprisonment and criminal detention are custodial sentences. Under the law, judges have the discretion to sentence petitioners to up to 60 months in prison. For the purposes of retaliation and deterrence, the authorities may consciously impose severer penalties on petitioner defendants. This yields the following hypothesis:

> **Hypothesis 3.** Petitioner defendants receive longer custodial sentences than non-petitioner defendants, ceteris paribus.

In addition to custodial sentences, biases also exist in the judicial decisions to grant probation.[26] Probation is a common tool used by grassroots judges to grant leniency (Liebman, 2015). However, since petitioners on probation retain a high degree of freedom and may employ new petitioning strategies, judges are less likely to show leniency to them. We thus expect:

[21]See Articles 156–160, Criminal Procedural Law of the PRC.

[22]In a few instances, some grassroots authorities may even fake charges against petitioners, simply in order to deprive them temporarily of their freedom and prevent potential petitioning activities. This is described by our interviewees as "preventive detention" (*yufangxing jiya*).

[23]According to the criminal law, people convicted of these crimes may be sent to jail for a period of between 6 months and 15 years, unless they are put on probation. See Articles 45–47, Criminal Law of the PRC.

[24]Criminal detention (*juyi*) is a lesser penalty than fixed-term imprisonment: a convict is detained not in prison but in a local public security bureau, and the maximum period of detention is 6 months. See Articles 42–44, Criminal Law of the PRC.

[25]A defendant sentenced to community correction (*guanzhi*) is allowed to live in their community and work for money, but is subject to the surveillance of the local justice bureau. See Articles 38–41, Criminal Law of the PRC.

[26]Probation may be granted to convicts who are sentenced to fixed-term imprisonment or criminal detention. During the probationary period, the sentence is suspended and the convict is subject to community correction for a period of no more than 5 years. If the convict passes the probationary period, the sentence is deemed to have been served; if not, the convict is sent back to jail. See Articles 72–77, Criminal Law of the PRC.

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Hypothesis 4. Petitioner defendants have fewer opportunities to be granted probation than non-petitioner defendants, ceteris paribus.

In the following sections, we will rely on statistical analysis to test our hypotheses.

DATA, VARIABLES, AND METHODS

Studying stability justice in China's criminal justice, we drew on the judgments published on the Internet in cases of picking quarrels and provoking trouble. We collected all the verdicts on picking quarrels and provoking trouble published on China Judgments Online, and obtained 92,494 judgments made between 2014 and 2018.[27] We tried to probe the biases in the accusations and the sentences against the petitioners through comparative analysis.

Among all the judgments, a total of 2314 cases involved petitioner defendants, accounting for about 2.5% of the entire caseload. We were concerned that the low percentage of petitioners' cases may lead to an estimation bias on the effect of petitioning if our estimation was based on a representative sample (King & Zeng, 2001), so we adopted an oversampling strategy and generated a new sample in which the petitioners' cases accounted for 50% of the sample and the cases with non-petitioner defendants for the other 50%. First, we extracted all the judgments in which the defendants were accused because of their petitioning strategies and obtained 2314 cases (hereinafter termed "the petitioner group"). Second, we tried to sample 2314 cases with non-petitioner defendants (hereinafter termed "the non-petitioner group") from the remaining 90,180 cases. To increase the similarity of the two groups, we divided the remaining cases into province-year strata, identified the number of the petitioners' cases in each province-year, and simply randomly sampled the same number of cases from the corresponding non-petitioner stratum. The non-petitioner group thus has the same number of cases, which are randomly sampled, as the petitioner group in any specific province-year. Finally, our sample consisted of 4628 cases, in which one half of the sample are petitioners' cases and the other half are non-petitioners' cases with similar features.[28]

We coded our variables of interest from the combined sample. Our dependent variables are the length of pre-trial detention (DETENTION), which is measured in weeks, and the length of custodial sentence (SENTENCE), which is measured in months. We also generated a dichotomous variable PROBATION, in order to figure out whether petitioners were less likely to be put on probation than non-petitioners.

The key independent variable of interest is PETITION, which equals 1 if the particular accusation arose, completely or partly, from the defendant's petition experiences and 0 if not. To avoid the potential for omitted variable bias, we also included a number of control variables. As the severity of the penalty is directly related to the factual circumstances, as stipulated in Article 293 of Criminal Law of China, we adopted four dummy variables that characterize the criminal acts with which the defendants were charged, namely BEATING (Article 293-1), INTIMIDATING (Article 293-2), TAKING (Article 293-3), and RAMPAGING (Article 293-4).[29] To distinguish principal offenders from secondary offenders, we generated a variable named ORDER OF DEFENDANT to indicate the

[27]The statistics were collected on July 5, 2019 from China Judgments Online, http://wenshu.court.gov.cn, which is the official national website for judicial disclosure. The statistics may change slightly over time because of time delays and for technical reasons.

[28]Given the ambiguity of the statute of picking quarrels and provoking trouble, as discussed earlier, many different types of behaviors may fall into this crime, which may undermine the validity of our comparison between the two groups of cases. To minimize the biases, we designed a series of control variables to control for the factual circumstances of sampled cases, so to roughly ensure that the comparison is drawn on the same type of criminal acts.

[29]Since the defendants could be charged with more than one criminal accusation, we generated these four dummy variables mainly by looking at whether the judge expressly identified in the judgment whether the defendant had carried out any of the four specific types of action. We read all the verdicts to reduce the number of cases in which these four variables were missing because the verdict was not formally complete or there were other technical issues. We included, for the incomplete verdicts, the description written by the judge in other parts of the verdict as the basis for generating the values for the dummy variables for the criminal actions.

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sequence of defendants in the case. The NUMBER OF DEFENDANTS in a case was also included as a control variable, given its potential influence on sentencing. Since maintaining social stability is the top priority of the Chinese judiciary (He, 2014), we also created a variable of MASS EVENT to identify whether the defendant had taken part in a mass event and had thus exerted populist pressure on the judicial decision-making process. We gave a value of 1 if the verdict mentioned any type of mass event, and a value of 0 if not. Since the Criminal Law of China stipulates certain mitigating and aggravating circumstances that may reduce or increase the sentence,[30] we also generated two dummy variables, namely MITIGATION and AGGRAVATION, to examine whether the judgments specified these circumstances.

We also included a set of other confounding variables at both individual level and institutional level. The variables at individual level included gender (male or female), education level (primary school education or below, junior high school education, senior high school education, college education), ethnicity (Han or ethnic minority), and age. We also generated a dummy variable, LEGAL COUNSEL, to identify whether the defendant was represented by legal counsel. As for the variables at institutional level, we controlled for the court hierarchical status by a dummy variable TRIAL COURT to identify whether the case was judged in a trial court or a senior court. We also generated a set of provincial-level variables to capture the social, economic, and geographical characteristics of the place of adjudication.[31] These are the logarithm of POPULATION, the logarithm of GDP PER CAPITA, EXPENDITURE ON PUBLIC SECURITY, and EXPENDITURE GROWTH ON PUBLIC SECURITY.[32]

Data at a glance

From the combined sample (4628 cases), we obtained a total of 6239 individual observations, with 2675 petitioner defendants and 3564 non-petitioner defendants.[33] Table 1 presents the descriptive statistics of the sample. As for our dependent variables, the average length of pre-trial detention was 30.2 weeks, and the mean for a custodial sentence was 16.3 months. The probation rate was 35.5%, which means that around one third of the defendants were sentenced to community correction instead of a custodial sentence. The proportion of petitioner defendants in our sample was 42.9%.

In our sample, both petitioners and non-petitioners were accused of offenses relating to a social disturbance, such as harassing a government official or destroying public property, with reference to the statute on picking quarrels and provoking trouble and the relevant judicial interpretations. No defendant was convicted for petitioning alone. In fact, the judges may have paid more attention to the legal reasoning in the cases where the defendant was a petitioner. One piece of evidence for this is that the verdicts in the petitioner group are significantly longer than the verdicts in the non-petitioner group. The mean of the total number of words for all the cases is 6160 in the petitioner group and 2620 in the non-petitioner group. This finding supports the assertion of our interviewees that the courts try to ensure there is a solid legal basis for their decisions on petitioners (authors' interviews with Chinese judges and procuratorates, 2020). The proportion of defendants with a criminal record is 3.63% in the petitioner group and 8.84% in the non-petitioner group. This implies that

[30]When applied to picking quarrels and provoking trouble, mitigating circumstances typically include voluntary surrender, rendering meritorious service, desistance from crime, and being an accessory. Aggravating circumstances include recidivism and abetting juvenile delinquency. See Articles 24, 29, and 65–68, the Criminal Law of the PRC.

[31]The data were extracted from the database of National Data created by National Bureau of Statistics of China. For more detail, see http://data.stats.gov.cn/index.htm (accessed March 18, 2020).

[32]We used the logarithm of POPULATION to measure population size, which has been considered as a confounding variable in prior studies on criminal punishment (Reitz & Klingele, 2019; Yu & Liska, 1993). We included the logarithm of GDP PER CAPITA to measure the local economic development level, as this is also a confounding factor that influences the severity of criminal punishment (Ehrlich, 1996; Peerenboom, 2011). Fully aware of the regional differences as regards social management, we included public security expenditure, which is the total annual spending on local police, procuratorates, and courts. This is a commonly used indicator in prior studies to measure local attitudes towards and the abilities to control social disturbances (Scoggins, 2018; Xu, 2021). We also included the annual growth in public security expenditure to capture the changing degrees of repression intensity in different provinces.

[33]It is common for a criminal case to have two or more defendants, which is referred to as a joint crime. The percentage of cases with multiple defendants is 10.3% in the petitioner group, 15.8% in the non-petitioner group, and 13.1% in the combined sample.

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TABLE 1 Summary of descriptive statistics

Statistic	*N*	Mean	SD	Min	Pctl (25)	Pctl (75)	Max
Sentence	6156	16.334	10.783	0.000	8.000	24.000	66.000
Petition	6239	0.429	0.495	0	0	1	1
Detention	6107	30.199	21.836	0.000	16.714	38.857	237.571
Probation	6225	0.355	0.479	0.000	0.000	1.000	1.000
Beating	6239	0.460	0.498	0	0	1	1
Intimidating	6239	0.071	0.258	0	0	0	1
Taking	6239	0.298	0.457	0	0	1	1
Rampaging	6239	0.300	0.458	0	0	1	1
Han	4077	0.932	0.252	0.000	1.000	1.000	1.000
Age	4352	41.169	14.804	17.000	28.000	52.000	87.000
Legal counsel	6238	0.424	0.494	0.000	0.000	1.000	1.000
Number of defendants	6239	1.997	1.662	1	1	3	16
Order of defendant	5885	1.356	0.639	1.000	1.000	2.000	3.000
Mass event	6239	0.208	0.406	0	0	0	1
Mitigation	6239	0.724	0.447	0	0	1	1
Aggravation	6239	0.083	0.275	0	0	0	1
Trial court	6239	0.967	0.179	0	1	1	1
Year	6239	2016.331	1.235	2014	2015	2017	2018

the vast majority of the petitioners in our sample were being prosecuted for the first time. It helps to rule out one possible reverse causation route, that petitioners who have been treated badly by the courts will petition to protest about their maltreatment. Our interviews also indicate that the deterrent effect of a criminal sanction is strong enough to change the behavior patterns of a prosecuted petitioner: most petitioners stop petitioning after a criminal sanction, and all of them become extremely cautious about engaging in new activities to pursue their rights (authors' interviews with Chinese judges and procuratorates, 2020; see also Feng & He, 2018).

As we are interested in the differences in our dependent variables between the petitioner group and the non-petitioner group, we drew graphs of the lengths of the pre-trial detentions and custodial sentences for these two groups. Figure 1 shows how the lengths of the pre-trial detentions and custodial sentences are distributed among the petitioner defendants and the non-petitioner defendants. As shown in this figure, the petitioners were generally detained before their trials for longer periods than the non-petitioners, and similarly, the petitioners received longer custodial sentences.

As for probation, we can see from Figure 2 that there is a significant difference between the petitioner group (23.6% were granted probation) and the non-petitioner group (44.5%). The probation rate for non-petitioners is almost twice that for petitioners. These figures provide a rudimentary overview of the effects of petitioning on pre-trial detention, custodial sentence, and probation. They provide preliminary evidence that petitioners receive biased treatment in criminal adjudications. To avoid omitted variable biases, we controlled for the potential confounding factors and present more rigorous statistical analyses in the following sections.

Estimating strategies

Although our dataset is constructed from judgments, we opted for defendants as the unit of analysis. Our baseline model is a linear model that incorporates fixed effects, as specified below:

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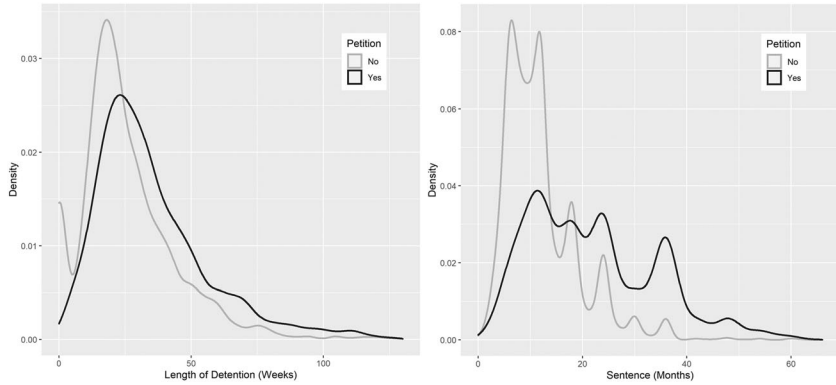

FIGURE 1 Distributions of pre-trial detention and custodial sentence

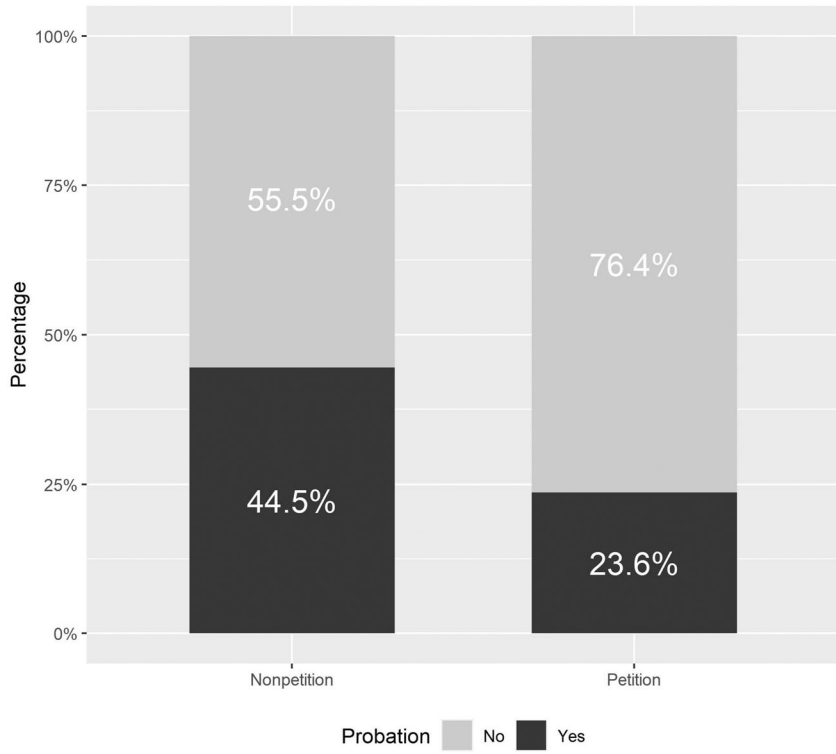

FIGURE 2 Probation rates for petitioners and non-petitioners

$$\boldsymbol{y}_{ijt} = \alpha \text{Petition}_{ijt} + \beta \boldsymbol{x}_{\text{ijt}} + \gamma_{\text{j}} + \delta_{\text{t}} + \varepsilon_{\text{ijt}}$$

$\boldsymbol{y}_{ijt}$ are our dependent variables, that is, the length of the pre-trial detention or custodial sentence imposed on defendant i in province j and adjudicated in the year t. α is the coefficient for the variable of interest, PETITION, and β is a vector of coefficients for the control variables $\boldsymbol{x}_{\text{ijt}}$. Since we are also interested in the effect of petitioning on the opportunity to be put on probation, we use a logistic model with fixed effects instead for this estimate.

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RESULTS

Our statistical analysis of the published judicial documents reveals that the accusation against a petitioner of picking quarrels and provoking trouble may contain social control purposes of stability maintenance. This kind of stability justice functions in two dimensions. As regards the procedural aspect, petitioner defendants, compared to non-petitioner defendants, suffer from longer periods of pre-trial detention when they are accused of picking quarrels and provoking trouble. As regards the distributive aspect, petitioner defendants are given severer penalties and are less likely to be put on probation, with other legal circumstances held constant.

Procedural biases

Table 2 presents the results of our regression analyses for detention length. We ran three regression specifications. The first specification contains only the independent variable of interest and covariates relating to the criminal circumstances. The second specification includes covariates at the individual level. The third specification incorporates covariates at the institutional level.

As we can see from Table 2, all the coefficients for PETITION are positive and significantly different from zero at the 0.1% significance level. For example, the coefficient value in Column 3 is 9.452, which means that a petitioner will be detained for about 9 weeks longer than a non-petitioner, with the other factors fixed. The effect is far from trivial if we note that the average detention length in our group is 30.2 weeks. The results support our first hypothesis that the authorities repress petitioners by imposing longer pre-trial detention sentences on them.

Further, to study whether pre-trial detention is employed as a tool for containing petitioners during politically sensitive periods, we tried to detect changes in the patterns of pre-trial detention immediately before significant political events. Since the judicial verdicts do not mention the causes of pre-trial detention, we adopted a strategy that measures the effect of the occurrence of an unconventional political event. Unlike a routine political event, such as the *Two Conferences*,[34] an unconventional political event is exogenous to the grassroots authorities. It functions as an external shock and allows us to detect real patterns of change.[35] From 2014 to 2018, one of the most important national political events was the 2015 China Victory Day Parade, which took place on September 3rd 2015 for the purpose of celebrating China's victory in World War II. Since this was a unique political event that happened only in 2015, it allows us to use the patterns for pre-trial detention in other years as a control. To detect whether the grassroots authorities consciously detained petitioners, a comparison is drawn between the petitioner group and the non-petitioner group.

Figure 3 shows the daily numbers of petitioners and non-petitioners arrested from August 15th to September 15th in 2015 and in other years (2014, 2016, 2017, and 2018). In the top left panel of the figure, we can see that the daily number of petitioners arrested increased sharply in the 2 weeks before the event, and fell back after September 3rd. As a comparison, we did not find such surges in other years, as shown in the top right panel. Also, the number of suspects arrested is much smaller in the years other than 2015, if we compare the histograms in the two top panels. With our observations for non-petitioners as a control, we find no surge between 2014 and 2018 in the two bottom panels. These results show that the grassroots authorities are more likely to detain petitioners, but remain indifferent to non-petitioners, as significant political events draw close. This supports our empirical findings that, acting under pressure to maintain social stability, grassroots authorities employ pre-trial detention as a means to control petitioners temporarily during politically sensitive periods.

[34] *Two Conferences* is the official abbreviation for the annual session of the National People's Congress and the annual meeting of the People's Political Consultative Conference.

[35] Since routine political events take place annually at similar times, the interactions between political actors (petitioners) and local governments may be regularized. An unconventional political event normally happens only once, which allows us to make clearer comparisons. If the number of arrests increases during the time immediately before the event but remains stable during the same periods in other years, it is evident that the local authorities are preventively arresting petitioners for the purpose of maintaining social stability.

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TABLE 2 Petition and length of pre-trial detention

	Dependent variable Length of detention (weeks)		
	(1)	(2)	(3)
Petition	9.897***	9.254***	9.452***
	(0.942)	(1.732)	(1.715)
Beating	2.721**	3.241*	2.886
	(1.013)	(1.521)	(1.507)
Intimidating	7.226***	5.576***	5.701***
	(1.111)	(1.634)	(1.619)
Taking	2.880***	3.561**	3.602**
	(0.825)	(1.194)	(1.183)
Rampaging	2.303*	3.254*	3.419*
	(1.061)	(1.517)	(1.503)
Gender		−1.763	−1.429
		(1.152)	(1.141)
Primary school		−0.883	−0.554
		(1.730)	(1.712)
Junior high school		2.757	2.890
		(1.757)	(1.738)
Senior high school		3.825	3.910
		(2.023)	(2.002)
College		4.769	4.929
		(2.631)	(2.603)
Han		1.112	0.561
		(1.743)	(1.733)
Age		−0.007	−0.022
		(0.042)	(0.042)
Legal counsel		2.380**	2.232**
		(0.854)	(0.846)
Number of defendants		0.768*	0.550
		(0.312)	(0.310)
Order of defendant		−0.152	−0.202
		(0.748)	(0.740)
Mass event		1.960	2.151*
		(1.068)	(1.057)
Mitigation		−4.541***	−3.594***
		(1.029)	(1.026)
Aggravation		1.934	2.287
		(1.478)	(1.465)
Trial court			−16.331***
			(2.037)
Population (log)			−64.414
			(118.647)

(Continues)

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TABLE 2 (Continued)

	Dependent variable Length of detention (weeks)		
	(1)	(2)	(3)
GDP per capita (log)			−21.962*
			(9.899)
Expenditure on public security			0.017
			(0.021)
Expenditure growth on public security			−0.045
			(0.092)
Constant	15.407***	11.302	773.694
	(1.522)	(8.525)	(862.742)
Year effect	Yes	Yes	Yes
Province effect	Yes	Yes	Yes
Observations	6107	3090	3090
R^2	0.094	0.118	0.138
F statistic	16.575***	8.094***	8.840***

*$p < 0.05$; **$p < 0.01$; ***$p < 0.001$.

However, we cannot easily attribute the above surge in the number of detainees to the authorities' preventive control of "trouble-makers." It could be caused by the increasing disorder as a result of mounting petitioning strategies during politically sensitive periods. The surge in the number of detained petitioners could be attributable to the authorities' law-based responses to the burst of social disturbances. Therefore, to support our argument and rule out the influence of mounting disorder in politically sensitive periods, we did an additional test on the detention of petitioner defendants during politically sensitive periods. We went through all the cases and found 64 petitioners who were detained during the week before the 2015 China Victory Day Parade (from August 27th to September 2nd), and then we checked the date of the offenses of which they were accused. Among these petitioners, only half were detained within 4 weeks after the alleged offense, while 26 were detained for offenses committed more than 2 months before, and eight of them were even detained for petitioning activities in the previous year (2014). This presents a sharp contrast to the petitioners detained during the same period of the year in 2014, 2016, 2017, and 2018, of whom 73.8% were detained within 4 weeks after the alleged offense. The results show that, while some of the detentions may have been the result of the mounting disorder before and during the politically sensitive periods, pre-trial detention as a means of temporary control does exist.

Distributive biases

To probe whether and how petitioner defendants suffer from distributive biases when they are accused of picking quarrels and provoking trouble, we ran the three regression specifications in Table 2 for the sentence and probation respectively, and the results are reported in Table 3. In the first three columns, we find that the coefficients of PETITION are all significantly positive at the 0.1% significance level. The coefficients are of a tremendous effect size. Take the estimate in Column 3, for example. If the defendant is a petitioner, he receives an additional 9.867 months for his custodial sentence, ceteris paribus. As we know from Table 1, the average sentence in our sample is

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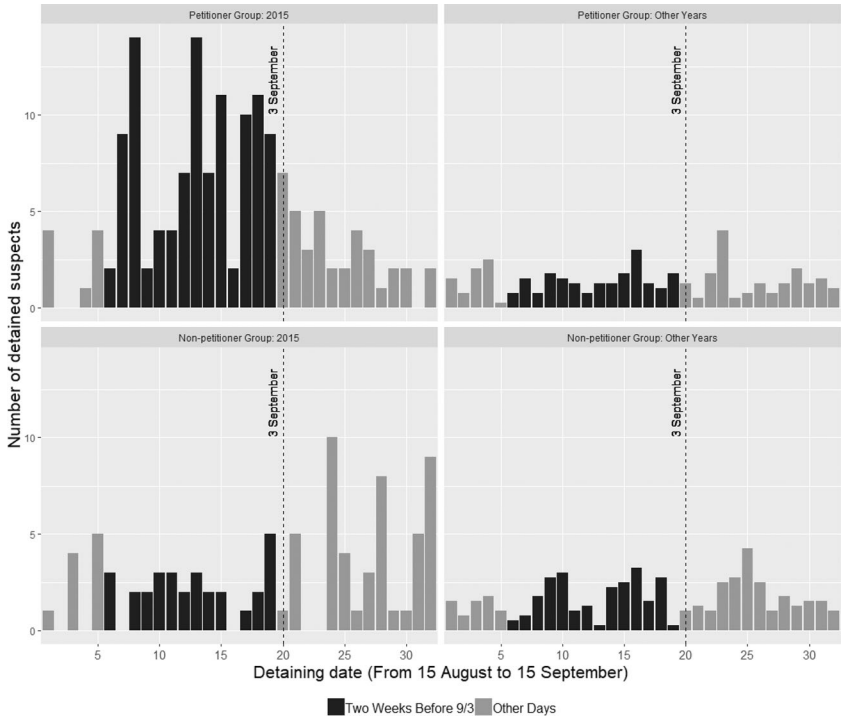

FIGURE 3 Pre-trial detention, 2015 China victory day parade, and petitioning. We extracted the starting date of detention of every defendant in our sample from the verdicts, and calculated the number of defendants who were first detained on each day. The histograms show the daily numbers of suspects detained from 15th August to 15th September between 2014 and 2018. The two histograms in the left panels show the number of petitioners and non-petitioners, respectively, whose detention began on each day before the China Victory Day Parade in 2015, and the two histograms in the right panels illustrate the average number of petitioners and non-petitioners whose detention began on each day for this period in the other 4 years (2014, 2016, 2017, and 2018).

16.334 months. The result provides strong evidence that petitioner defendants suffer from distributive biases.

As for probation, we find a negative association between probation and petitioners, which may imply that petitioners are less likely to be put on probation than non-petitioners, if all other conditions are equal. Although the coefficients are all negative in the three specifications, not all of them are statistically significant, especially when more control variables are added. The results provide weak support for our fourth hypothesis about the relationship between probation and petition. We will discuss this result further in the following section on robustness checks.[36]

Robustness checks

As our research is based on online verdicts, the "missingness problem" of court disclosure is worth considering (Liebman et al., 2020). According to the 2016 Amendment of the Regulation on Publishing Judgments on the Internet by People's Courts, local courts retain the discretion not to upload

[36]As to the control variables, the coefficient of GENDER is −0.487 and it is statistically significant at the 0.1% significance level, meaning that a female defendant is more likely to be put on probation than a male defendant, holding other factors equal. Similarly, a defendant with a higher education level is more likely to be granted probation. The coefficients of LEGAL COUNSEL are statistically negative, which implies that having legal counsel reduces the opportunity to be put on probation. One possible reason for this unexpected result is that the defendants accused of more serious charges have stronger incentives to hire counsel.

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TABLE 3 Petition, sentence, and probation

	Dependent variable					
	Sentence (months)			Probation		
	OLS			Logistic		
	(1)	(2)	(3)	(4)	(5)	(6)
Petition	10.541***	9.860***	9.867***	−0.685***	−0.219	−0.246
	(0.413)	(0.718)	(0.719)	(0.107)	(0.198)	(0.199)
Beating	2.652***	3.303***	3.274***	0.065	0.055	0.060
	(0.445)	(0.633)	(0.635)	(0.115)	(0.178)	(0.179)
Intimidating	1.388**	0.266	0.242	−0.441***	−0.450*	−0.428*
	(0.488)	(0.675)	(0.676)	(0.131)	(0.199)	(0.200)
Taking	2.795***	2.285***	2.237***	−0.296**	−0.215	−0.207
	(0.363)	(0.497)	(0.497)	(0.092)	(0.138)	(0.139)
Rampaging	1.807***	2.093***	2.060**	−0.313*	−0.083	−0.101
	(0.467)	(0.629)	(0.630)	(0.122)	(0.180)	(0.181)
Gender		0.270	0.277		−0.448***	−0.487***
		(0.480)	(0.481)		(0.134)	(0.135)
Primary school		0.239	0.242		0.277	0.260
		(0.718)	(0.719)		(0.201)	(0.202)
Junior high school		−0.118	−0.150		0.443*	0.439*
		(0.730)	(0.731)		(0.204)	(0.204)
Senior high school		1.089	1.060		0.763**	0.745**
		(0.843)	(0.843)		(0.234)	(0.235)
College		−0.258	−0.308		1.295***	1.273***
		(1.098)	(1.099)		(0.304)	(0.305)
Han		1.035	0.964		0.054	0.108
		(0.719)	(0.722)		(0.204)	(0.207)
Age		0.003	0.002		0.013**	0.013**
		(0.018)	(0.018)		(0.005)	(0.005)
Legal counsel		0.341	0.351		−0.717***	−0.707***
		(0.354)	(0.354)		(0.096)	(0.097)
Number of defendants		0.355**	0.349**		0.112***	0.121***
		(0.129)	(0.130)		(0.033)	(0.034)
Order of defendant		−1.905***	−1.906***		0.388***	0.392***
		(0.309)	(0.309)		(0.081)	(0.082)
Mass event		−0.808	−0.785		0.224	0.206
		(0.442)	(0.442)		(0.118)	(0.118)
Mitigation		−4.104***	−4.125***		1.429***	1.392***
		(0.429)	(0.432)		(0.125)	(0.127)
Aggravation		2.927***	2.895***		−2.050***	−2.060***
		(0.610)	(0.611)		(0.245)	(0.245)
Trial court			−0.532			0.843**
			(0.858)			(0.259)

(Continues)

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TABLE 3 (Continued)

	Dependent variable					
	Sentence (months)			Probation		
	OLS			Logistic		
	(1)	(2)	(3)	(4)	(5)	(6)
Population (log)			−30.665			−3.541
			(49.529)			(13.605)
GDP per capita (log)			1.910			2.041
			(4.148)			(1.122)
Expenditure on public security			−0.001			−0.004
			(0.009)			(0.002)
Expenditure growth on public security			0.074			−0.003
			(0.039)			(0.011)
Constant	1.130	1.417	218.448	−1.026***	−17.841	−14.956
	(0.668)	(3.525)	(360.220)	(0.186)	(435.497)	(452.675)
Year effect	Yes	Yes	Yes	Yes		
Province effect	Yes	Yes	Yes	Yes		
Observations	6156	3072	3072	5632	2828	2828
R^2	0.281	0.340	0.341			
Log likelihood				−3377.374	−1511.367	−1501.919
F statistic	63.067***	31.174***	28.417***			

*$p < 0.05$; **$p < 0.01$; ***$p < 0.001$.

verdicts if they regard them to be "inappropriate to disclose online." Since there is no clear standard for "inappropriateness," we have little information about whether cases are missing at random. By comparing the number of officially reported cases to the number of cases disclosed online, we roughly estimate that the percentage of undisclosed cases for the crime of picking quarrels and provoking trouble is around 27%.[37] Given the possible selection bias caused by missing cases, we preprocessed the combined sample using the matching method. Matching is a powerful nonparametric approach for improving causal inference by reducing the confounding influence of pretreatment control variables between the treatment and control groups in non-experimental data (Ho et al., 2007; Stuart, 2010). As King and Nielsen (2019) have pointed out, propensity scores matching (PSM), a commonly used matching method, suffers from problems of increasing imbalance, inefficiency, model dependence, and bias. We thus used coarsened exact matching (CEM) to preprocess our data.[38]

[37]In the petitioner group, the five provinces with the largest number of published cases are Henan (461), Heilongjiang (182), Hebei (178), Jilin (178), and Liaoning (170). Since there is no uniform standard for disclosure and the detailed official statistics are inaccessible, there is no way to specify the patterns of the missing data. To estimate the percentage of undisclosed cases, we drew comparisons with reference to the parent category (the crime of disrupting the social order) instead. According to the Supreme People's Court Gazette, a total of 1,387,911 first instance judgments were issued in this category between 2014 and 2018. The number of first instance judgments disclosed on China Judgments Online during the same period is 1,015,182, which accounts for 73% of the issued judgments. If the missingness rates for the different crimes are distributed evenly within this category, the percentage of undisclosed cases in our sample should be around 27%. See Supreme People's Court Gazette, available at http://gongbao.court.gov.cn/PeriodicalsDic.html (accessed March 2, 2020).

[38]CEM coarsens every variable by recoding it so that substantively indistinguishable values are grouped together and assigned the same numerical value (Iacus et al., 2012). Unlike PSM, CEM requires no assumptions about the data generation process, and it reduces imbalance, model dependence and estimator errors (King et al., 2012). Therefore, we consider CEM to be a better choice than PSM for preprocessing our data.

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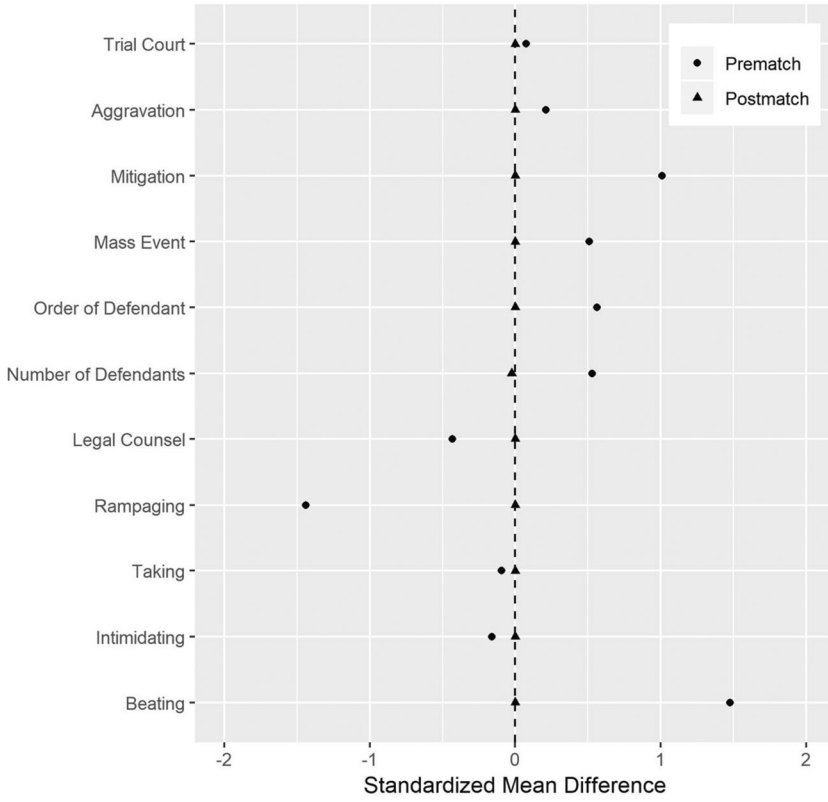

FIGURE 4 Covariate balance of control variables

Figure 4 shows the covariate balance of the control variables for petitioner defendants and non-petitioner defendants before and after matching. We found that we had a balanced sample after using CEM.

We ran regression analyses on pre-trial detention, custodial sentence, and probation, with our matched sample. The results are presented in Figure 5. Consistent with the findings in the previous section, there is a positive and significant effect of being a petitioner on the length of pre-trial detention.

As we can see from the figure, the effect of being a petitioner on pre-trial detention is also significantly positive, and the value of its coefficient is not much different from the values in Table 3. Interestingly, we find a significantly negative effect of being a petitioner on the opportunity to be put on probation if we control for a set of variables. The coefficient is −0.36, which means that if a defendant is a petitioner, the odds of being put on probation are decreased by 30.2%. This provides alternative evidence for our fourth hypothesis about the negative relationship between probation and being a petitioner.

DISCUSSION

This article studies the mechanism of stability justice by analyzing cases arising from accusations of picking quarrels and provoking trouble against petitioner defendants and non-petitioner defendants. Drawing on statistical analyses of published judicial documents, we provide evidence that, while accusations of picking quarrels and provoking trouble follow formal legal procedures and comply

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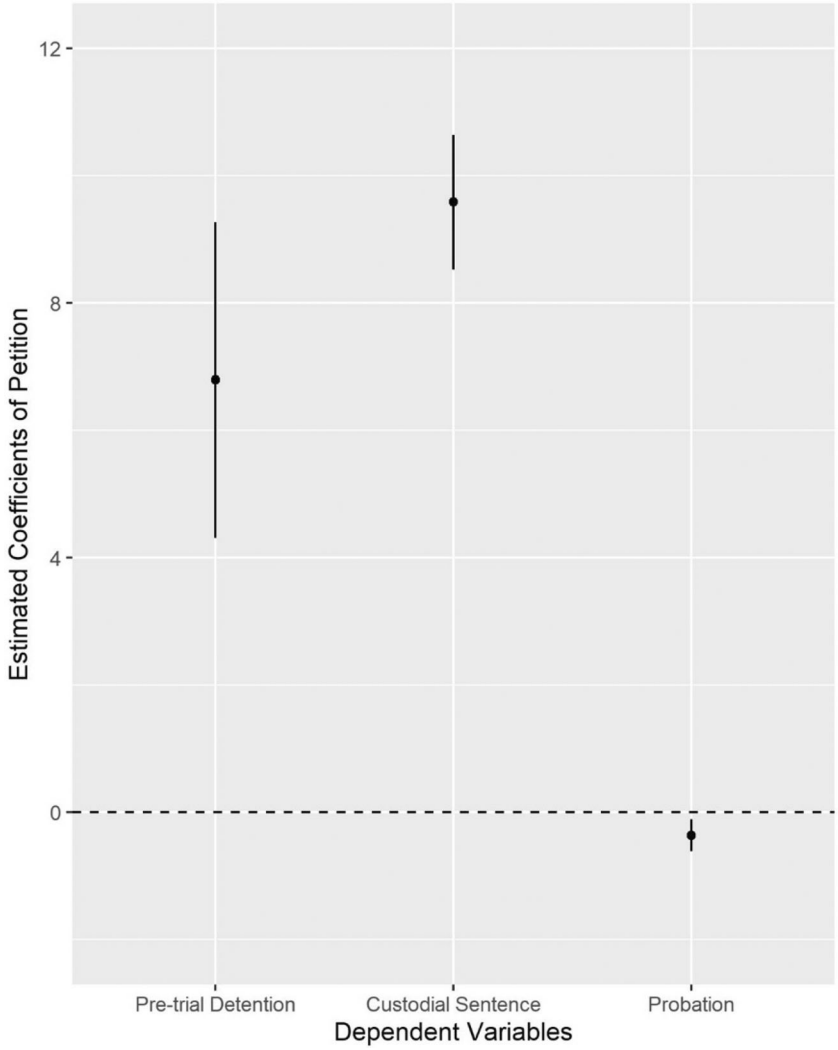

FIGURE 5 Effects of petition on pre-trial detention, custodial sentence, and probation in the matched sample

with the law, they may serve stability maintenance purposes by creating both procedural and distributive biases. On the procedural aspects, petitioner defendants may receive longer periods of pre-trial detention than other defendants. Petitioners are also more likely to be detained during politically sensitive periods, when local authorities have a stronger motivation to repress petitioning. On the distributive aspects, petitioner defendants may be sentenced to significantly longer custodial sentences and granted fewer opportunities for probation than non-petitioners, with other conditions held constant. The purpose is to take action against "trouble-makers," to prevent petitioning activities, and to deter potential petitioners. With the deliberate implementation of all the biases, seemingly justified processes are sometimes turned into a tool for containing petitioners and deterring petitioning strategies.

Stability justice is more formal and transparent than traditional tools for social control. If traditional means of repression symbolize total and unchecked power of authoritarian rule, then stability justice, which is subject to the constraints of legal rules and procedures, illustrates the self-limit of power and thus leads to a step forward towards law-based governance. However, it should be noted

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that the employment of stability justice may incur the risk of creating more governance obscurity. Unlike violent forms of repression, which seldom provide legitimate causes for penalizing the discontented, stability justice does uphold some law-based standards for petitioning activities, since all decisions are made in accordance with formal procedures and with reference to the law (Stern & O'Brien, 2012, p. 177). The problem is, since the decisions are made through the arbitrary use of judicial discretion and the covert manipulation of legal rules and procedures, these obscure standards do not clearly signal the limits of what is permissible, that is, whether particular resistance strategies will be tolerated or suppressed—before repression occurs (cf. Shen-Bayh, 2018). Judicial procedures are, accordingly, turned into a black box, in which the application of the law shields the authorities' social control tactics from supervision and erodes the authority of the judiciary. This echoes the findings of guilt construction in Yu Mou's (2020) study on Chinese criminal justice, as well as Sida Liu's (2020) argument that the Chinese legal system has become a "cage for the birds" with its rising formal rationality and instrumentality.

The findings of stability justice also spur us on to reconsider the role of the courts in contemporary China. Accompanied by the increasing significance of the law and the courts over the past two decades (Moustafa, 2014), the role of the judiciary in authoritarian regimes has become more important and complex. Meanwhile, new problems have arisen in this process. In our case of the Chinese judiciary, notable changes have taken place in recent years, as Chinese judges have increasingly served the function of enhancing regime legality by producing procedural and distributive justice within China's social governance. However, the courts, embedded in China's bureaucratic system, inevitably encounter external interference from the local authorities, and this is particularly evident at the grassroots level (See also He, 2021a; Ng & He, 2017). In this sense, more emphasis should be laid on enhancing the significance of law and courts in social management.

The theory of stability justice has a huge potential for generalization. Due to the limits of our data, this article focuses on the context of criminalizing petitioning and discusses how stability justice has been increasingly employed to contain petitioners who are accused of threatening social stability. The scope of stability justice, however, is far beyond criminal justice vis-à-vis particular social groups. It is a broad concept that encompasses different areas of justice and various types of judicial behaviors. For example, dealing with labor protests, the courts, echoing the demands of building "a harmonious society," give a privileged share of access to cases that are bolstered by protest actions and decide in favor of common protesters rather than government agencies, through a flexible interpretation of labor laws and procedural requirements (Chen & Xin, 2012; Su & He, 2010). In divorce cases, judges fudge the issue of domestic violence, suppress rightful claims to divorce, and prefer mediation to adjudication, in an effort to maintain stability and avoid "vicious incidents" caused by enraged litigants (He, 2021b; Michelson, 2019). In a way, stability justice may provide a feasible theoretical frame for explaining and analyzing the complex judicial behaviors in contemporary China. Further discussion is required to consolidate and extend the notion of stability justice in the Chinese context.

Moreover, stability justice not only deepens our understandings in the Chinese judiciary, but also provides theoretical lens to assess the law and courts in many contexts around the world. It has been shown that judiciaries in different authoritarian regimes may well serve the functions of strengthening political control (Levitsky & Way, 2010; Moustafa, 2014; Rajah, 2012), maintaining cohesion inside the ruling coalition (Shen-Bayh, 2018), facilitating economic development (Wang, 2014), and bolstering governance legitimacy (Biddulph, 2015; Ginsburg & Moustafa, 2008). Our analysis further illustrates that the judiciary does have the potential to be adopted as an effective tool for social control. A close examination of the judiciaries in Myanmar (Cheesman, 2015), Indonesia (Hurst, 2018), and Russia (Solomon, 2008) also reveals that, with similar imperatives of stability and order, judicial institutions can be used to serve social control purposes. These studies seem to indicate that measures of stability justice may have already been employed in some authoritarian regimes, and more questions are thus raised: What are the patterns, implications, and consequences of stability justice in authoritarian regimes? Does stability justice also exist in democracies, possibly with the purpose

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of managing highly sensitive social conflicts? Whether and how does the employment of stability justice differ among different contexts? Further research should focus on the application of stability justice in different contexts. These questions could only be satisfactorily answered if more empirical data and studies become available.

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