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ESSAY

ROLLING BACK TRANSPARENCY IN CHINA'S COURTS

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Despite a burgeoning conversation about the centrality of information management to governments, scholars are only just beginning to address the role of legal information in sustaining authoritarian rule. This Essay presents a case study showing how legal information can be manipulated: through the deletion of previously published cases from China's online public database of court decisions. Using our own dataset of all 42 million cases made public in China between January 1, 2014, and September 2, 2018, we examine the recent deletion of criminal cases from the China Judgements Online website. We find that the deletion of cases likely results from a range of overlapping, often ad hoc, concerns: the international and domestic images of Chinese courts, institutional relationships within the Chinese Party-State, worries about revealing negative social phenomena, and concerns about copycat crimes. Taken together, the decision(s) to remove hundreds of thousands of unconnected cases shape a narrative about the Chinese courts, Chinese society, and the Chinese Party-State. Our findings also provide insight into the interrelated mechanisms of censorship and transparency in an era in which data governance is increasingly central. We highlight how courts seek to curate a narrative that protects the courts from criticism and boosts their standing with the public and within the Party-State. Examining how Chinese courts manage the removal of cases suggests that how courts curate and manage information disclosure may also be central to their legitimacy and influence.

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INTRODUCTION

There has been a flood of scholarship on the importance of information to governance in recent years, focused on democratic and authoritarian countries alike. Scholars have recognized a shift in authoritarian regimes from rule by force and fear to increased use and manipulation of information as a way to build popular support and stay in power.[1] Direct censorship remains a tool of authoritarian control, but authoritarian rulers also turn to other strategies to crowd out critical voices, including information flooding, distraction, manipulation of public opinion online, and the creation of technical barriers to those seeking information.[2] Authoritarian countries have also borrowed

1. See Sergei Guriev & Daniel Treisman, Spin Dictators: The Changing Face of Tyranny in the 21st Century 3–30 (2022) ("[T]oday's strongmen realize that in current conditions violence is not always necessary or even helpful. . . . In place of harsh repression, the new dictators manipulate information."); see also Huirong Chen & Sheena Chestnut Greitens, Information Capacity and Social Order: The Local Politics of Information Integration in China, 35 Governance 497, 497–98 (2022) (discussing China's use of information integration in its fragmented authoritarian form of governance).

2. See Margaret E. Roberts, Censored: Distraction and Diversion Inside China's Great Firewall 105–11 (2018) [hereinafter Roberts, Censored] (discussing the various alternatives

governance mechanisms from liberal systems, including greater use of transparency as a tool for addressing a range of challenges.[3] Borrowing runs both ways, with elected leaders in democratic as well as newly authoritarian states borrowing from authoritarian playbooks to cement their authority.[4]

Despite this burgeoning conversation about the centrality of information management to democratic and authoritarian governments, scholars are only just beginning to address the role of legal information in sustaining authoritarian rule. Scholarship on the spread of authoritarian law has largely focused on how authoritarian rulers subvert legal norms or use law and courts to maintain social stability, foster economic development, or boost their own legitimacy.[5] There has been less attention to how such states build narratives about their legal systems or the role of legal information in such systems.[6] Rapid digitization of court information has brought renewed focus both to the lack of legibility in legal systems around the world and to the question of how courts produce and use public information.[7] Courts play essential roles in information

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to direct censorship that China employs to influence public opinion); Gary King, Jennifer Pan & Margaret E. Roberts, How the Chinese Government Fabricates Social Media Posts for Strategic Distraction, Not Engaged Argument, 111 Am. Pol. Sci. Rev. 484, 496–97 (2017) (analyzing the impact of an "astroturfing program" of pro–Communist Party online commentators on shaping public opinion as an alternative to censorship).

3. See Chen & Greitens, supra note 1, at 508–09 (explaining that leaders in a Chinese district addressed accountability challenges by increasing transparency); Zhuang Liu, T.J. Wong, Yang Yi & Tianyu Zhang, Authoritarian Transparency: China's Missing Cases in Court Disclosure, 50 J. Compar. Econ. 221, 221–22 (2022) (discussing the use of transparency by authoritarian regimes); Tamir Moustafa, Law and Courts in Authoritarian Regimes, 10 Ann. Rev. L. & Soc. Sci. 281, 294 (2014) (describing authoritarian regimes' increasing reliance on liberal democratic institutional forms).

4. Recent writing on liberal systems has likewise noted how new forms of information transmission as well as misinformation can destabilize existing frameworks for regulating information. See, e.g., Tim Wu, Is the First Amendment Obsolete?, 117 Mich. L. Rev. 547, 557–68 (2018).

5. See Tom Ginsburg & Tamir Moustafa, Introduction: The Functions of Courts in Authoritarian Politics, *in* Rule by Law: The Politics of Courts in Authoritarian Regimes 1, 2, 4–11 (Tom Ginsburg & Tamir Moustafa eds., 2008) (exploring "the conditions under which authoritarian rulers delegate decisionmaking to judiciaries and the political consequences of that choice"); Moustafa, supra note 3, at 283–87 (examining the various "ways in which law and courts are deployed as instruments of governance in authoritarian states"); Taisu Zhang & Tom Ginsburg, China's Turn Toward Law, 59 Va. J. Int'l L. 306, 375–89 (2019) ("[T]he empowerment of courts . . . has a straightforward connection with the Party leadership's interest in sociopolitical control and economic development . . . .").

6. There is, however, extensive scholarship on socialist legal systems that explores the importance of legal education in efforts to construct state authority and transform society. See generally Jennifer Altehenger, Legal Lessons: Popularizing Laws in the People's Republic of China, 1949–1989 (2018) (discussing the role of legal education and legal propaganda in the early years of the People's Republic of China).

7. One recent example is the work of David Freeman Engstrom and R.J. Vogt, who explore how rapid digitization may transform judicial governance in the United States. See David Freeman Engstrom & R.J. Vogt, The New Judicial Governance: Courts, Data, and the

management: Courts are sites where information about law is negotiated, and their decisions about whether and how to publicize case outcomes have the potential to shape public perceptions of the legal system, society, and the state more generally.

This lack of attention to legal information stems in part from two common beliefs: Liberal legal systems are inherently transparent, and authoritarian legal systems closely guard information. Sustained scholarship has detailed problems with transparency and legibility in the U.S. legal system.[8] At the same time, authoritarian legal systems, most notably China, have begun to put vast quantities of legal information online, with more than 141 million court judgments posted online since China's Supreme People's Court (SPC) established the China Judgements Online (CJO) website in 2014.[9]

This Essay presents a case study showing how legal information can be manipulated: through the deletion of previously published cases from China's online public database of court decisions. Using our own dataset

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Future of Civil Justice, 72 DePaul L. Rev. 171, 176–80 (2023). In the literature on Western systems, and in particular the United States, the focus is often on whether digitization will facilitate more equitable access to the legal system or reinforce differences between the haves and the have-nots. See id. at 176. Digitization offers opportunities for legal systems to be more legible than in the past but also new challenges and possibilities for misuse. See id.

8. Many commentators have noted that U.S. courts are far less transparent and accessible than they are often made out to be. See, e.g., T.S. Ellis III, Sealing, Judicial Transparency and Judicial Independence, 53 Vill. L. Rev. 939, 947 (2008); Hillel Y. Levin, Making the Law: Unpublication in the District Courts, 53 Vill. L. Rev. 973, 975–77 (2008); Robert A. Mead, "Unpublished" Opinions as the Bulk of the Iceberg: Publication Patterns in the Eighth and Tenth Circuits of the United States Courts of Appeals, 93 Law Libr. J. 589, 597 (2001); Judith Resnik, Courts: In and Out of Sight, Site, and Cite—The Norman Shachoy Lecture, 53 Vill. L. Rev. 771, 772–74 (2008). This literature focuses not on censorship but on trends such as the reduced use of trials and the rise of private dispute resolution and settlement, the use of unpublished cases, the sealing of cases, and the increased paper-only review of cases. Commentators on other systems have made similar observations. See, e.g., Jeffrey K. Staton, Judicial Power and Strategic Communication in Mexico 4 (2010) (noting the prevalence of selective transparency among Latin American supreme courts); David T. Johnson, Where the State Kills in Secret: Capital Punishment in Japan, 8 Punishment & Soc'y 251, 253–56 (2006) (arguing that secrecy regarding capital punishment in Japan derives from an effort to prevent scrutiny of the practice); Liz Fekete, Europe: 'Speech Crime' and Deportation, Race & Class, Jan. 2006, at 82, 82–83 (arguing that some European states use immigration proceedings to evade transparency in their legal systems).

9. Zhongguo Caipan Wenshu Wang (中国裁判文书网) [China Judgements Online], http://wenshu.court.gov.cn [https://perma.cc/STY7-EYSW] [hereinafter CJO] (last visited Aug. 21, 2023). Vietnam and Russia are two examples of other authoritarian states that have also begun releasing large quantities of judicial decisions online. Vietnam started requiring courts to publish their decisions online in 2017, using a centralized website similar to CJO. Trang (Mae) Nguyen, In Search of Judicial Legitimacy: Criminal Sentencing in Vietnamese Courts, 32 Harv. Hum. Rts. J. 147, 176 (2019). Russian judicial decisions are also meant to be posted publicly on court websites in compliance with the country's laws on information transparency. Lauren A. McCarthy, Douglas Rice & Aleks Lokhmutov, Four Months of "Discrediting the Military": Repressive Law in Wartime Russia, 31 Demokratizatsiya 125, 133 (2023).

of all 42 million cases made public in China between January 1, 2014, and September 2, 2018, we examine the recent deletion of criminal cases from the CJO website. Our data suggest that the reasons court officials remove cases are often reactive and ad hoc. But, taken together, the decision(s) to remove hundreds of thousands of unconnected cases shape a narrative about the Chinese courts, Chinese society, and the Chinese Party-State.

Literature on authoritarian regimes has explored why such states embrace transparency.[10] In this Essay, we ask different questions: What previously public information is removed, and why? Media accounts of the recent case removals in China frame case deletions largely as efforts to shield the Chinese legal system from international scrutiny.[11] In contrast, we find that the deletion of cases likely results from a range of overlapping concerns. These include the international and domestic images of Chinese courts, institutional relationships within the Chinese Party-State, worries about revealing negative social phenomena, and concerns about copycat crimes. We identify a trend of "sensitivity contagion," in which a small number of potentially sensitive cases leads to the removal of all cases involving certain categories of crimes, despite most cases being routine. These concerns reflect the multiple audiences for the public release of court data in China. Viewing disappeared cases also provides a window into fault lines in Chinese society, revealing areas of sensitivity largely overlooked in prior scholarship.

Our findings also provide insight into the interrelated mechanisms of censorship and transparency in an era in which data governance is increasingly central. We highlight how courts seek to curate a narrative that protects them from criticism and boosts their standing with the public and within the Party-State. Prior writing on authoritarian legal systems has generally assessed courts' power in terms of their ability to decide cases on the law absent external influence or to rule against other state actors.[12] Examining how Chinese courts manage the removal of cases suggests that how courts curate and manage information disclosure may also be central to their legitimacy and influence.

The findings we present reflect the Chinese political–legal system. Yet the questions raised are likely to have wider application as legal systems

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10. See infra text accompanying notes 77–81.

11. See, e.g., Luo Jiajun & Thomas Kellogg, Verdicts From China's Courts Used to Be Accessible Online. Now They're Disappearing., ChinaFile: Viewpoint (Feb. 1, 2022), https://www.chinafile.com/reporting-opinion/viewpoint/verdicts-chinas-courts-used-be-accessible-online-now-theyre-disappearing [https://perma.cc/845T-DKJW] (suggesting that the Chinese government has removed cases that "present an unflattering view of Chinese society," including cases that highlight official corruption or the government's "use of the criminal justice system to crack down on its critics").

12. See, e.g., Peter H. Solomon Jr., Courts and Judges in Authoritarian Regimes, 60 World Pol. 122, 124–29 (2007) (book review) (grouping authoritarian courts into four categories based on their level of independence from other branches of government and ability to rule against the state).

worldwide confront how much information to make public, how long information should remain public, who should determine when information is removed from the public domain, and the effect of mass digitization of court information on court and litigant behavior. Chinese courts may be unusual in their emphasis on equating the total number of cases made public to the fairness of the legal system and for the reasons they remove cases from public view. But they are unlikely to be alone in determining that not all court information should remain public or in seeking to use legal information to shift how they are perceived.

This Essay proceeds in five parts. Following this introduction, Part I discusses the background to Chinese courts' embrace of transparency in the 2010s through the mass publication of court judgments, as well as more recent signs of and probable reasons for the retreat from such policies. Part II provides a brief overview of three relevant but largely disconnected strands of academic literature that provide a conceptual background to this Essay: scholarship on transparency in authoritarian regimes, writing on censorship in China, and studies of how authoritarian states manage information to maintain power. Part III turns to our study of cases deleted from the China Judgements Online website, setting forth our methodology and findings regarding the deletion of criminal cases from the site. Part IV analyzes the categories of deleted cases in detail, highlighting broad categories of deleted cases: cases involving potential criticism of the courts or legal system, and cases that involve negative social phenomena or potentially portray other political–legal institutions in a negative light. Part V discusses the implications of this Essay's findings for theories of authoritarian information management and for understanding the role and authority of courts in authoritarian regimes. The Essay ends with a brief conclusion, noting that the issues and questions this Essay raises may not be limited to authoritarian legal systems.

I. BACKGROUND: JUDICIAL TRANSPARENCY IN CHINA'S COURTS

China's courts began experimenting with putting large numbers of cases online in the early 2010s. Since then, "judicial transparency" in China has become synonymous with the placement of final court decisions online. More recently, however, signs of a retreat from these transparency efforts have become apparent, with courts posting fewer cases than in the past and previously posted cases being removed from the China Judgements Online website. This Part traces the development of Chinese courts' policy of placing cases online and then discusses apparent signs that China's courts may be retreating from their earlier commitment to place most cases online.

A. *Embracing Transparency*

Following experiments with placing court decisions online in a small number of provinces, the Supreme People's Court in 2014 mandated that

courts place most decisions online.[13] By June 2023, China's courts had posted 141 million cases to the China Judgements Online website,[14] with tens of thousands of new cases uploaded daily, a reported 40 to 50 million daily user visits, and more than 100 billion total visits.[15] Official reports proclaim that China's courts have created the largest database of court judgments in the world and that the high volume of visits from China and around the world reflects growing trust in the Chinese legal system. As the head of the Guangdong Province Lawyers' Association stated in a 2020 report in the official *People's Court News*, "As our country increasingly moves toward the center of the world stage, China Judgments Online has been an important window to showcase our country's modern legal civilization."[16]

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13. We discuss this history in more detail elsewhere. See generally Benjamin L. Liebman, Margaret Roberts, Rachel E. Stern & Alice Z. Wang, Mass Digitization of Chinese Court Decisions: How to Use Text as Data in the Field of Chinese Law, 8 J.L. & Courts 177, 180–82 (2020) (highlighting the impacts of Chinese disclosure of court judgments online).

14. Zhongguo Caipan Wenshu Wang (中国裁判文书网) [China Judgements Online], https://perma.cc/8EPE-3ERA (as updated June 7, 2023) [hereinafter CJO, June 2023].

15. As of September 30, 2023, the site stated that it had received more than 105 billion visits. Zhongguo Caipan Wenshu Wang (中国裁判文书网) [China Judgements Online], https://perma.cc/WJG3-KBLQ (as updated Sept. 30, 2023). A 2020 report by the *People's Court News* reported that over a three-month period on average more than 77,000 cases were added each day. Jiang Peishan, Wan Ziqian & Zhao Lili (姜佩杉、万紫千、赵利丽), Shangxian 7 Nian Wenshu Zongliang Po Yi Rijun Zenzhang 7.7 Wan Pian Yishang Zhongguo Caipan Wenshuwang: Fazhi Zhongguo de "Yi" dao Liangli Fengjing (上线 7 年 文书总量破亿 日均增长 7.7 万篇以上 中国裁判文书网:法治中国的"亿"道亮丽风景) [Total Number of Documents Exceeds 100 Million After 7 Years Since Launch, With an Average Daily Increase of More Than 77,000—China Judgements Online: "100 Million" Beautiful Sceneries in the Rule of Law in China], Renmin Fayuan Bao (人民法院报) [People's Court News] (Sept. 5, 2020), https://www.court.gov.cn/zixun-xiangqing-252201.html [https://perma.cc/TJ2D-2APM]. It is likely that large portions of the recorded visits are by web crawlers. Professors Yingmao Tang and John Zhuang Liu argue that the sheer number of visits makes it likely that the site is being widely used by laypeople. Yingmao Tang & John Zhuang Liu, Mass Publicity of Chinese Court Decisions: Market-Driven or Authoritarian Transparency?, China Rev., May 2019, at 15, 20. We are not aware of any effort by the SPC to distinguish between web crawlers, legal practitioners, or laypeople in calculating users of the site.

As we discuss further below, although new cases continue to be posted, the rate of posting has declined since 2021. See infra text accompanying notes 45–49. As of June 7, 2023, the CJO website reported having more than 141 million cases and having been visited 103 billion times, with roughly 5,000 new cases posted daily. CJO, June 2023, supra note 14.

16. Jiang Peishan et al., supra note 15. The report mentioned our research team's work as evidence of the "growing interest in Chinese law around the world." Id. The theme of China's transparency efforts being linked to growing global confidence in and influence of the Chinese legal system was echoed in a 2022 *People's Daily* article, issued under the name of the Supreme People's Court's Communist Party Group, on "Xi Jinping Rule of Law Theory." Zhonggong Zuigao Renmin Fayuan Dangzu (中共最高人民法院党组) [Chinese Communist Party Group of the Supreme People's Court], Zai Xi Jinping Fazhi Sixiang Zhiyin xia Kuobu Xiangqian (Shenru Xuexi Guanche Xi Jinping Xin Shidai Zhongguo Tese Shehui Zhuyi Sixiang) (在习近平法治思想指引下阔步向前 (深入学习贯彻习近平新时代中国特色社会主义思想)) [Step Forward With the Guidance of Xi Jinping Thought on the

The rapid embrace of judicial transparency is a sharp departure for a legal system in which obtaining court judgments had previously been difficult for anyone other than litigants. The CJO site is almost certainly the largest database of judicial decisions in any authoritarian legal system and is now one of the largest centralized collections of court judgments anywhere. Scholars writing in Chinese and in English have embraced this new resource, producing a large volume of new scholarship analyzing cases posted to the CJO site.[17] Case publication has also begun to transform legal practice by making it easier for lawyers to mount arguments based on prior cases and by creating a new market for legal data.[18]

The embrace of public disclosure of court judgments by China's courts in the 2010s appeared to be the culmination of a global trend toward embracing transparency as a tool of governance, in both liberal and illiberal regimes.[19] Beginning in the early 2000s, China embraced a range of transparency measures, including regulations on open government, public release of environmental data, the online posting of government procurement documents, and the release of court judgments.[20] The embrace of transparency (as well as of village elections

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Rule of Law (In-Depth Study and Implementation of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era)], Renmin Ribao (人民日报) [People's Daily] (July 6, 2022), http://paper.people.com.cn/rmrb/html/2022-07/06/nw.D110000renmrb_20220706_1-09.htm [https://perma.cc/43JP-7MGK] [hereinafter SPC Party Group, Step Forward]. The article argued that Chinese courts had already established a system for making information about litigation processes, hearings, decisions, and enforcement public. Id.

17. On the benefits to scholars, see Zuo Weimin & Wang Chanyuan (左卫民、王婵媛), Jiyu Caipan Wenshuwang de Dashuju Falü Yanjiu: Fansi yu Qianzhan (基于裁判文书网的大数据法律研究:反思与前瞻) [Reflections and Looking Ahead: Big Data Legal Research Based on China Judgements Online], 23 Huadong Zhengfa Daxue Xuebao (华东政法大学学报) [E. China U. Pol. Sci. & L. J.], no. 2, 2020, at 64, 69.

18. On the development of the market for legal information, see Rachel E. Stern, Benjamin L. Liebman, Margaret E. Roberts & Alice Z. Wang, Automating Fairness? Artificial Intelligence in the Chinese Courts, 59 Colum. J. Transnat'l L., 515, 530–32 (2021) [hereinafter Stern et al., Automating Fairness].

19. There is extensive literature on the global spread of transparency across a range of domains and nations. See, e.g., Daniel Berliner, The Political Origins of Transparency, 76 J. Pol. 479, 487–90 (2014); Yong Suk Jang, Munseok Cho & Gili S. Drori, National Transparency: Global Trends and National Variations, 55 Int'l J. Compar. Socio. 95, 100–05 (2014).

20. See Arthur Kaufman & Adam Yu, China Digit. Times, CDT Report: Cloud Cover—Police Geographic Information System Procurement Across China, 2005–2022, at 6 (2023), https://drive.google.com/file/d/1KEWW_ExDl_Ho6p5FwSTfrt1zb4Ley3mF/view [https://perma.cc/NNU4-6RDM] (discussing how data for the report were collected from procurement documents posted online); Liebman et al., supra note 13, at 181–83 (discussing the policy of placing court decisions online); Peter Lorentzen, Pierre Landry & John Yasuda, Undermining Authoritarian Innovation: The Power of China's Industrial Giants, 76 J. Pol. 182, 185–86 (2014) (describing this move toward transparency within the context of environmental governance in China, particularly how local obstruction of national environmental protection policies led to a transparency strategy encompassing publicly available reporting information, automatic disclosures, and investigation results);

and an enhanced role for civil society) in the 2000s and early 2010s reflected the high tide of borrowing from the West, suggesting that, just as elsewhere, the spread of transparency discourse and policies to China resulted from the Washington Consensus's emphasis on transparency as a tool of strengthening economic performance.[21]

What was perhaps most striking about the shift was that the SPC's decision was voluntary: There was no external legal requirement that courts place decisions online.[22] Yet there were also clear benefits to the SPC from the new self-imposed disclosure requirement. Court leadership viewed transparency as a way to curb wrongdoing by lower-level judges, standardize outcomes, and boost the legitimacy of the traditionally weak courts at a time when legal reform centered on raising the status of the courts.[23] Publishing cases online was also a rare example of an area where Chinese courts could claim to be leading the world. The new disclosure requirements aligned with central Party-State goals of curbing corruption and embracing limited forms of greater openness. The digitization that followed from the publication requirement was also a key building block for court efforts to embrace technology across a range of areas, including online filing of cases, tracking evidence, online hearings, and the growing use of artificial intelligence to monitor and guide court decisions. These efforts—generally grouped under the "smart courts" heading—permitted

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Jessica Batke & Mareike Ohlberg, State of Surveillance: Government Documents Reveal New Evidence on China's Efforts to Monitor Its People, ChinaFile (Oct. 30, 2020), https://www.chinafile.com/state-surveillance-china [https://perma.cc/UW4H-JKLX] (investigating emerging state-led surveillance infrastructures through the use of government procurement notices).

21. David E. Pozen, Transparency's Ideological Drift, 128 Yale L.J. 100, 145 (2018) [hereinafter Pozen, Transparency's Ideological Drift] (discussing the International Monetary Fund's and the World Bank's endorsement of transparency as part of neoliberal economic policies designed to boost economic performance, known as the Washington Consensus).

22. China's regulations on open government do not apply to the courts, although China is not unusual in excluding court information from open government requirements. See Kyu Ho Youm & Toby Mendel, The Global Influence of the United States on Freedom of Information, *in* Troubling Transparency: The History and Future of Freedom of Information 249, 254 (David Pozen & Michael Schudson eds., 2018) ("The U.S. FOIA is . . . an outlier because [the right to information] does not apply to the legislature or the courts.").

23. See Benjamin L. Liebman, Authoritarian Justice in China: Is There a "Chinese Model"?, *in* The Beijing Consensus? How China Has Changed Western Ideas of Law and Economic Development 225, 231 (Weitseng Chen ed., 2017) [hereinafter Liebman, Authoritarian Justice in China] (discussing how the reform efforts focused on improving the quality and fairness of the courts); Liebman et al., supra note 13, at 180–83 ("[L]arge-scale release of court documents may . . . serve Party goals by curbing wrongdoing in the courts. Court officials in Henan made this line of argument explicit: judges are more likely to follow the law and less likely to engage in malfeasance when they know their work will be made public."); Stern et al., Automating Fairness, supra note 18, at 520–29 ("Court leaders and rank-and-file judges saw the ways in which technology could boost the power and legitimacy of the courts and also ease their workload.").

the courts to position themselves at the vanguard of state efforts to use technology to transform governance.[24] Elsewhere, we examine in more detail both the reasons behind China's decision to place most judicial decisions online and the challenges the initiative has encountered.[25] The goal of these efforts has always been limited to the release of a final court decision.[26] Litigant filings, court transcripts, and evidence are not made public. Over time, the SPC has also moved to limit how such data are used, in particular by curtailing efforts of private data providers to collect and market court data.

The SPC's rules do not require all cases to be made public. SPC rules state that certain categories of cases should not be made public, including cases touching on state secrets, divorce or family law cases, and civil cases resolved through mediation.[27] SPC rules also allow courts to exclude from online posting a catch-all category of "other cases not suitable for publication."[28] The rules thus give the courts discretion not to make a range of cases public. The rules do not specify sanctions for courts that fail to comply with requirements to post cases online, and posting cases online has generally been understood to be a soft target for court officials, meaning they are not formally evaluated based on the number or percentage of cases made public. When courts decide not to make a case public, they are required to provide a reason for such non-publication and post both the case number and the reason for non-publication online. Compliance with this requirement has been spotty.[29] We located only one provincial high court, Jilin, that has consistently made this information available.[30]

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24. Stern et al., Automating Fairness, supra note 18, at 520–29.

25. Liebman et al., supra note 13, at 180–83; Stern et al., Automating Fairness, supra note 18, at 520–29.

26. The SPC has also placed videos of tens of thousands of cases online, a resource largely not yet explored by scholars. Stern et al., Automating Fairness, supra note 18, at 523 (discussing how the SPC has publicly live streamed millions of cases to disclose more information to the public).

27. Guanyu Renmin Fayuan zai Hulianwang Gongbu Caipan Wenshu de Guiding, Fashi [2016] Shijiu Hao (关于人民法院在互联网公布裁判文书的规定、法释【2016】19号) [Regulations on the Publication of Judgments on the Internet by the People's Courts, Judicial Interpretation No. 19 [2016]] (promulgated by the Judicial Comm. Sup. People's Ct., July 25, 2016, effective Oct. 1, 2016) Sup. People's Ct. Gaz., Aug. 29, 2016, http://gongbao.court.gov.cn/Details/415f49dd8baaa04b479d57af9616ef.html [https://perma.cc/62KZ-VPPW] (China) [hereinafter SPC Internet Publication Regulations].

28. Id. Courts have not always complied with these rules. For example, tens of thousands of divorce cases were posted online despite the SPC's prohibition. Stern et al., Automating Fairness, supra note 18, at 536.

29. Stern et al., Automating Fairness, supra note 18, at 533–37.

30. For data from Jilin, see Bushangwang Wenshu Gongshi (不上网文书公示) [Public Notice of Documents Not Online], Jilin Sheng Gaoji Renmin Fayuan Sifa Gongkaiwang (吉林省高级人民法院司法公开网) [Jilin High People's Court Judicial Openness Net], http://www.jlsfy.gov.cn/bswwsgs/index.jhtml [https://perma.cc/4UKL-LJ9J] (last visited

The SPC's rules on online publication provide limited guidance on when and how public cases may be removed from the database.[31] Since the launch of the CJO website in 2014, lawyers and scholars have noted that cases are sometimes removed after initially being posted. Commentators have largely understood removal to happen on a case-by-case basis, likely due to concerns or complaints raised by litigants, often influential companies or individuals;[32] or to errors in cases that require correction; or

June 1, 2023). We located no other provincial high courts that made this information available for the entire provincial court system. Some municipal courts made this information available only for a limited period. For example, the courts in Nanjing released information on nonpublic cases only in 2017 and 2018. Bu Shangwang Wenshu (不上网文书) [Documents Not Online], Nanjing Shenpan Wang (南京审判网) [Nanjing Trial Online], https://www.njfy.gov.cn/www/njfy/cpws_4.htm [https://perma.cc/7XFX-3SLH] (last visited May 17, 2023). The Guangzhou courts made this information public only from 2018 through 2021. Caipan Wenshu Bushangwang Qingkuang Tongji (裁判文书不上网情况统计) [Data of Documents Not Online], Guangzhou Shenpanwang (广州审判网) [Guangzhou Trial Online], https://www.gzcourt.gov.cn/cpws/ck486/index2.html [https://perma.cc/XT5P-BCPV] (last visited May 17, 2023). For other examples of courts' partial disclosure of non-publication information, see Caipan Wenshu (裁判文书) [Decision Documents], Shanghai Shi Gaoji Renmin Fayuan (上海市高级人民法院) [Shanghai Municipality High People's Court], https://www.hshfy.sh.cn/shfy/gweb2017/flws_list_bgkws_new.jsp [https://perma.cc/MW6D-VG6P] (last visited June 1, 2023) (disclosing information on selected cases not made public prior to 2017); Bu Shangwang Wenshu Gongshi (不上网文书公示) [Public Notice of Documents Not Online], Zhonghua Renmin Gongheguo Tianjin Haishi Fayuan (中华人民共和国天津海事法院) [Tianjin Maritime Court of the People's Republic of China], https://tjhsfy.tjcourt.gov.cn/article/index/id/MzTLNjAwNzAwMiACAAA.shtml [https://perma.cc/3TFS-Y47A] (last visited May 17, 2023) (listing information from 2017 to 2021 on cases not made public but not making such information available for cases decided after 2021).

31. The SPC's 2016 rules state only that when there is an error in a case that has already been published on the website, courts may remove the case and repost a corrected version. See SPC Internet Publication Regulations, supra note 27, art. 16.

32. For examples of online discussion of high-profile cases being removed, see Yihao Shiwu Ju (1 号时务局), Hengrui Yiyao Beibao Xinghui Yisheng hou Caipan Wenshu Xiaoshi Youren Weixie Yi Xiaoshi nei Shanchu Wenzhang? (恒瑞医药被曝行贿医生后裁判文书消失 有人威胁 1 小时内删除文章?) [After Hengrui Medicine Exposed for Bribing Doctors, Court Opinion Disappears; Document Is Removed Within an Hour of Someone Making a Threat?], Xinlang Caijing (新浪财经) [Sina Fin.] (Jan. 28, 2021), https://finance.sina.cn/2021-01-28/detail-ikftpnny2573761.d.html [https://perma.cc/HD85-4PM8] (describing pressure on court to remove a case that exposed bribes paid to doctors by a pharmaceutical company); Jinri Chuxing Wang (今日出行网), Che Panjueshu, Mang Shangao: Lianyungang "Yanshi" Yinbao Wangluo Beihou. . . . . (撤判决书、忙删稿: 连云港"艳事"引爆网络背后. . . . .) [Censoring Court Decision, Hastily Deleting Posts: Behind the Lianyungang "Sex Affair" Exploding Online. . . . .], Weixin Gongzhong Hao (微信公众号) [WeChat Pub. Acct.] (Mar. 14, 2021), https://mp.weixin.qq.com/s/x1vhwD4zOjMt-lUaS_IzPw [https://perma.cc/9U7M-YNPL] (discussing a viral news story about a case involving sexual abuse within the police force that was reportedly removed).

This practice has also spawned commercial entities that offer to have cases removed for a fee. For examples, see Beijing Changlong Shangwu Zixun Youxian Gongsi (北京昌隆商务咨询有限公司) [Beijing Changlong Com. Consulting Ltd.], Qiye You Daliang Susong Jilu Zenmeban? Zhuli Qiye Susong Jilu Kuaisu Xiufu! (企业有大量诉讼记录怎么办 ?助力企业诉讼记录快速修复!) [What to Do When a Business Has a Large Number of Litigation Records? Help Your Business Quickly Repair Its Litigation Records!], Douyin (抖音)

to realizations that certain cases should never have been posted in the first place.[33] Courts also appear at times to remove cases after publication to protect the privacy of litigants, either because cases were insufficiently redacted or because litigants complain about a case being placed online.[34] Commentary on the issue within China has largely occurred in social media posts noting that some cases appear to have been removed, but social media posts discussing the issue have also been deleted.[35] Existing scholarship has largely examined the issue through the lens of variation in

[Douyin] (Aug. 17, 2022), https://v.douyin.com/idY2LTKJ (on file with the *Columbia Law Review*); Changsheng Qiye Xinyong (常胜企业信用) [Changsheng Enter. Credits], Caipan Wenshu Xiajia (裁判文书下架) [Taking Down Court Opinions], Douyin (抖音) [Douyin] (Sept. 27, 2023), https://v.douyin.com/idYYwY4C/ (on file with the *Columbia Law Review*); Hubei Huangjie Fawu (湖北皇杰法务) [Hubei Huangjie Legal Consulting], Chexiao Caipan Wenshu Xiajia Chenggong! Wanmei de Jieguo Laizi Kehu Wanmei de Peihe! Hezuo Gongying! (撤销裁判文书下架成功! 完美的结果来自客户完美的配合! 合作共赢!) [Successfully Remove (and) Take Down Judgments! The Perfect Outcome Resulted From the Perfect Cooperation With the Client! Win–Win Collaboration!], Douyin (抖音) [Douyin] (June 11, 2023), https://v.douyin.com/idY2B1QJ/ (on file with the *Columbia Law Review*).

33. See, e.g., Xu Wenjin & Yao Jingyan (徐文进、姚竞燕), Bei Yiwang Quan Fanshi xia Caipan Wenshu Shangwang hou Chehui Jizhi de Jianshi yu Youhua—Jiyu 131 fen Chehui Wenshu ji "Geren Xinxi Baohu Fa" de Dingxiang Fenxi (被遗忘权范式下裁判文书上网后撤回机制的检视与优化——基于 131 份撤回文书及《个人信息保护法》的定向分析) [Review on the Withdrawal Mechanism for Judicial Documents Online Under the Paradigm of the Right to Be Forgotten—A Targeted Analysis Based on 131 Withdrawal Documents and the "Personal Information Protection Law"], 139 Fazhi Yanjiu (法制研究) [Rsch. on Rule L.], no. 1, 2022, at 82, 82–90 (suggesting potential reforms to publishing cases online from the perspective of the right to be forgotten); Yang Jinjing, Tan Hui & He Haibo (杨金晶、 覃慧、 何海波), Caipan Wenshu Shangwang Gongkai de Zhongguo Shijian—Jingzhan, Wenti yu Wanshan (裁判文书上网公开的中国实践——进展、问题与完善) [China's Practice of Disclosing Judgment Documents Online: Progress, Problems and Improvements], Zhongguo Falü Pinglun (中国法律评论) [China L. Rev.], no. 6, 2019, at 125, 141–43 (noting several issues with the current online publication scheme, such as improper redaction).

34. Yang Jinjing et al., supra note 33, at 142 (noting improper redaction and privacy concerns as reasons for case removal).

35. Cf. Zhimian Chuanmei (直面传媒), Caipan Wenshu Wang Za Chengle Baomi Wang? (裁判文书网咋成了保密网?) [How Did China Judgements Online Become a Confidential Network?], China Digit. Times (July 9, 2021), https://chinadigitaltimes.net/chinese/668078.html [https://perma.cc/5575-BV9V] (demonstrating that social media posts discussing the removal of cases have themselves been removed).

disclosure rates across provinces,[36] or by looking at specific categories of cases that are not made public.[37]

Chinese courts have adopted other components to their transparency reforms, notably placing tens of thousands of videos of court proceedings online and establishing new filing systems that make it easier for litigants to track the progress of their cases.[38] Generally, however, "transparency" in Chinese courts has become synonymous with placing final court decisions online.[39] Media reports about CJO tend to focus on the sheer

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36. See, e.g., Lei Chen, Zhuang Liu & Yingmao Tang, Judicial Transparency as Judicial Centralization: Mass Publicity of Court Decisions in China, 31 J. Contemp. China 726, 733–34 (2022) (analyzing differences in disclosure rates among provinces); see also Tang Yingmao (唐应茂), Sifa Gongkai ji Qi Jueding Yinsu: Jiyu Zhongguo Caipan Wenshu Wang de Shuju Fenxi (司法公开及其决定因素:基于中国裁判文书网的数据分析) [Judicial Openness and Its Deciding Factors: Analysis Based on China Judgements Online Data], 12 Qinghua Faxue (清华法学) [Tsinghua U. L.J.], no. 4, 2018, at 35, 35–47 (noting that existing scholarship has largely examined the issue of transparency through the lens of variation in disclosure rates across provinces).

37. See, e.g., Liu et al., supra note 3, at 222 (examining undisclosed court cases involving publicly listed firms); Xiaohan Wu, Margaret E. Roberts, Rachel E. Stern, Benjamin L. Liebman, Amarnath Gupta & Luke Sanford, Augmenting Serialized Bureaucratic Data: The Case of Chinese Courts 4–5 (21st Century China Ctr., Working Paper No. 2022-11, 2022), https://ssrn.com/abstract=4124433 [https://perma.cc/3KAH-DUFY] (developing and using a transparency rate estimation model at the court-division level to approximate the percentage of cases made public by criminal or administrative divisions within local courts).

38. For video streaming of court proceedings, see Zhongguo Tingshen Gongkai Wang (中国庭审公开网) [China Ct. Trial Online], http://tingshen.court.gov.cn/preview [https://perma.cc/LT4Y-Q2D3] (last visited June 7, 2023). For the online case filing portal, see Zuigao Renmin Fayuan Susong Fuwu Wang (最高人民法院诉讼服务网) [Supreme People's Ct. Online Litig. Servs.], https://ssfw.court.gov.cn/ssfw/pro/index.htm [https://perma.cc/B3NU-4R2R] (last visited June 7, 2023). For discussion on how "smart courts" reforms are facilitating litigant access to the courts, see Li Jiabao (李嘉宝), "Zhihui Fayuan" Xianshang Jie Jiufen ("智慧法院"线上解纠纷) ["Smart Courts" Solving Disputes Online], Renmin Ribao Haiwaiban (人民日报海外版) [People's Daily Overseas Edition] (Mar. 30, 2022), http://paper.people.com.cn/rmrbhwb/html/2022-03/30/content_25910118.htm [https://perma.cc/82DM-UWTL]. For more detailed discussion on the various efforts to create "smart courts," see Stern et al., Automating Fairness, supra note 18, at 524–32.

39. In our initial paper in this project, we avoided using the term "transparency," opting instead to describe court efforts as "mass digitization." See Liebman et al., supra note 13, at 180 & n.5 ("'Transparency' is a capacious word . . . ."). We use the term "transparency" here to align our analysis with existing literature on authoritarian transparency and with the growing body of work that examines CJO. In describing China's judicial transparency as "translucent," Susan Finder notes that judicial transparency includes far more than just judicial decisions and that a range of other basic information about China's courts remains difficult to obtain despite the significant progress the SPC has made in making decisions public. Susan Finder, China's Translucent Judicial Transparency, *in* Transparency Challenges Facing China 141, 160–62 (Fu Hualing, Michael Palmer & Zhang Xianchu eds., 2019) (showing that the difficulty in obtaining judicial statistics remains a challenge for the Chinese judiciary itself).

number of cases made public, not how such data are used.[40] The emphasis on the volume of cases is made clear by CJO's landing page, which updates in real time the total number of cases made public, the number of new daily uploads, and the total number of visits to the website.[41]

B. *Retreating From Transparency?*

Official media accounts in China continue to praise the courts for embracing transparency.[42] In the summer of 2021, however, social media postings noted a different trend. Categories of cases that had previously been available disappeared from the CJO official online database.[43] These included cases that resulted in death sentences as well as those involving certain crimes, such as crimes implicating state security and "picking quarrels and provoking trouble," which is sometimes used to target peaceful dissidents and petitioners.[44]

The reports of cases being deleted were a harbinger of a decision to post far fewer judgments in the future. Social media posts within China in early 2022 noted that the CJO website had added far fewer cases for 2021 than it had done for prior years.[45] Although it was initially unclear whether this was due to explicit policy or to a delay in posting cases,[46] more recent

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40. See, e.g., Jiang Peishan et al., supra note 15 (highlighting that the total number of "documents" posted on the CJO website exceeds 100 million).

41. See CJO, supra note 9.

42. For a recent example, see Rang Gongping Zhengyi yi Kandejian de Fangshi Shixian—Jujiao Zuigaofa Gongzuo Baogao Zhong de "Gongkai Yinji" (让公平正义以看得见的方式实现——聚焦最高法工作报告中的"公开印记") [Let Justice Be Served in a Visible Way—Focusing on the "Openness Imprint" of the SPC's Work Report], Renmin Fayuan Bao (人民法院报) [People's Ct. News] (Mar. 13, 2023), https://www.chinacourt.org/article/detail/2023/03/id/7186815.shtml [https://perma.cc/VU5C-F2HG] (praising the commitment of the People's Court to the "enhancement of judicial transparency").

43. See, e.g., Zhimian Chuanmei, supra note 35 (noting that various kinds of cases, including those involving theft, gambling, and fraud, became unavailable).

44. Dui Hua Found., China: All State Security Judgments Purged From Supreme Court Site, Dui Hua Hum. Rts. J. (July 26, 2021), https://www.duihuahrjournal.org/2021/07/china-all-state-security-judgments.html [https://perma.cc/DBL6-GFXE]; see also Alice Su, He Tried to Commemorate Erased History. China Detained Him, Then Erased That Too, L.A. Times (June 24, 2021), https://www.latimes.com/world-nation/story/2021-06-24/china-world-history-erasure-youth-censorship (on file with the *Columbia Law Review*) ("Thousands of politically sensitive cases disappeared last month from China Judgments Online, the public archive.").

45. See, e.g., Shuju Hegui (数据合规) [Digit. Compliance], Xiaoshi de Caipan Wenshu (消失的裁判文书) [Disappearing Court Opinions], Weixin Gongzhong Hao (微信公众号) [WeChat Pub. Acct.] (Mar. 8, 2022), https://mp.weixin.qq.com/s/DNAHNCanu3AzpvAtj7sWOA [https://perma.cc/A9QC-LYVR] (describing a social media user's research, in which they found that the number of judicial documents published on CJO's website in 2021 declined by 30% as compared to 2020).

46. SPC rules state that cases should be published online only once they become final, meaning either no appeal is filed within seven business days of judgment or, if an appeal is filed, the case is decided on appeal. See SPC Internet Publication Regulations, supra note

data show a dramatic reduction in the volume of cases being made public.[47] As Table 1 indicates, the trend is most clear in administrative cases: Among all the cases made public by October 2023, the total number of cases by decision year decreased from a high of 556,353 cases available from 2019 to just 854 cases available from 2022.[48] The trend is also clear in criminal and civil cases, albeit with a less dramatic decline. Just 177,350 criminal cases decided in 2022 were available on CJO in October 2023, down from a high of 1,484,669 in 2019. The number of available civil cases decreased from a high of 14.4 million cases decided in 2019 to 5 million cases in 2022.[49]

TABLE 1. CASES AVAILABLE ON CJO BY DECISION YEAR AND CASE TYPE AS OF OCTOBER 24, 2023

Decision Year	Criminal	Civil	Administrative
2013	187,150	1,014,049	37,358
2014	868,283	4,512,188	169,949
2015	952,636	6,113,413	260,364
2016	1,493,278	7,548,520	384,301
2017	1,383,688	10,633,725	480,702
2018	1,426,324	12,338,250	527,785

27, art. 7. Although cases move through the Chinese legal system quickly, courts often post cases a few months after they are decided. Wang Yijun (王亦君), Caipan Wenshu Shangwang Gongkai Hai Xu Maiguo Naxie Menkan (裁判文书上网公开还需迈过哪些门槛) [What Are the Requirements for Making Court Judgments Available Online], Zhonguo Qingnian Bao (中国青年报) [China Youth Daily] (Dec. 10, 2013), http://zqb.cyol.com/html/2013-12/10/nw.D110000zgqnb_20131210_3-11.htm [https://perma.cc/B9NL-RLQK].

47. See infra Table 1.

48. Some online commentators have noted the dramatic decline in available administrative cases but have not speculated as to the reasons behind the apparent change in policy. See, e.g., Alexander Boyd, Administrative Proceedings—"People Suing Government"—Removed From Chinese Legal Database in New Blow to Transparency, China Digit. Times (Mar. 24, 2023), https://chinadigitaltimes.net/2023/03/administrative-proceedings-removed-from-chinese-legal-database-in-blow-to-transparency [https://perma.cc/6WTF-QXWK]; Xifei Long (龙习飞), Kai Lishi Daoche? 2022 Nian Xingzheng Anjian Yishen Caipan Wenshu Wangshang Gonkailü Jin 0.06%! (开历史倒车? 2022 年行政案件一审裁判文书网上公开率仅 0.06%!) [A Regression to the Past? The Rate of Publication of First Instance Judgments of Administrative Cases in 2022 Hit Only 0.06%!], Zhihu (知乎) [Zhihu] (Apr. 20, 2023), https://zhuanlan.zhihu.com/p/623580709 [https://perma.cc/CV29-7W3Z].

49. Anjian Leixing: Minshi Anjian (案件类型:民事案件) [Case Type: Civil Case], CJO, https://perma.cc/FG7B-65NN (as updated Oct. 24, 2023); Anjian Leixing: Xingshi Anjian (案件类型:刑事案件) [Case Type: Criminal Case], CJO, https://perma.cc/3ZLH-BXLX (as updated Oct. 24, 2023); Anjian Leixing: Xingzheng Anjian (案件类型:行政案件) [Case Type: Administrative Case], CJO, https://perma.cc/M9AM-3F49 (as updated Oct. 24, 2023).

Decision Year	Criminal	Civil	Administrative
2019	1,484,669	14,403,929	556,353
2020	1,260,172	13,965,165	496,567
2021	634,977	9,642,778	101,521
2022	177,350	4,939,104	854

There has been little systematic discussion within China of either case deletions or why fewer cases are being posted than in the past. Some reports in China on the removal of cases or the reduction in the number of cases posted were themselves deleted.[50] Commentators have come up with various explanations for the deletions and reduced case postings. Scholars have noted concerns that posting cases could harm individuals: There is one report of a litigant being denied a job after a prospective employer looked up a case.[51] Some commentators have noted that publishing court decisions may be harmful to businesses.[52] Likewise, commentators have noted risks that the media could use cases to stir up public opinion and have referenced European discussions of the right to be forgotten.[53] There also appears to be discussion within the courts

50. See, e.g., Zhimian Chuanmei, supra note 43 (resharing information about removal of cases after the original post was taken down for violating internet policies). Not all such posts were deleted; some remain online, although generally with little analysis of the reasons for such deletions. See, e.g., Xiaoyi Liangjie (肖一凉介), Weixin Gongzhong Hao (微信公众号) [WeChat Pub. Acct.] (Feb. 22, 2022), https://mp.weixin.qq.com/s/GSSdkW0RzE-_2pag0_6qpg [https://perma.cc/RX73-G6PC] (discussing deletion of cases relating to cheating on national college entrance exams and discussing possible explanations); Shi Fulong Lüshi (石伏龙律师) [Shi Fulong, Esq.], Xinlang Weibo (新浪微博) [Sina Weibo] (June 23, 2021), https://m.weibo.cn/status/4651274924721035 [https://perma.cc/PP73-8YP2] (asking why cases are being deleted); Wang Jun Biji (王军笔记) [Notes by Wang Jun], Xinlang Weibo (新浪微博) [Sina Weibo] (Aug. 20, 2019), https://m.weibo.cn/status/4407509785981349 [https://perma.cc/NK8M-5JC6] (criticizing the SPC for deletions).

51. See Lu Qing, Tan Shanshan & Cao Cong (陆青、檀杉杉、曹聪), Weichengnian Ren Fanzui Jilu Fengcun: Rang Tamen "Wuhen" Huigui (未成年人犯罪记录封存：让他们"无痕"回归) [Juvenile Criminal Record Sealing: Let Them Return "Without a Trace"], Zhonghua Renmin Gongheguo Zuigao Renmin Jianchayuan (中华人民共和国最高人民检察院) [Supreme People's Procuratorate of People's Republic of China] (May 5, 2022), https://www.spp.gov.cn/zdgz/202205/t20220505_556125.shtml [https://perma.cc/2MVH-EZ98] (describing a young man's account of being denied a position due to his criminal record).

52. For a discussion of how a court "saved" a company by removing a judgment that affected the company's ability to obtain credit, see Hubei Gaoyuan (湖北高院) [Hubei High People's Ct.], Caipan Wenshu Xiawang, Qiye Shunli Dujie (裁判文书下网、企业顺利渡劫) [Court Opinion Taken Offline, Company Smoothly Clears Hurdle], Weixin Gongzhong Hao (微信公众号) [WeChat Pub. Acct.] (Apr. 12, 2023), https://mp.weixin.qq.com/s?__biz=MzAwNDM0MzU1MQ==&mid=2649613386&idx=1&sn=4652de2b1dea655f5d7bb76523254178 [https://perma.cc/5GKV-5JBC].

53. See, e.g., Li Guangde (李广德), Caipan Wenshu Shangwang Zhidu de Jiazhi Quxiang Ji qi Fali Fansi (裁判文书上网制度的价值取向及其法理反思) [Value Orientation

regarding which types of cases should be posted and the possible negative repercussions for the courts of posting cases.[54] Chinese courts, particularly the SPC, also came under heavy criticism and scrutiny in 2019 following domestic and international media coverage of alleged political interference in a high-profile contract case.[55] That scrutiny may have made the SPC more cautious about its transparency reforms. Other explanations for deletions and reduced case postings have also surfaced, including China's enactment of new laws on data security and personal information.[56] Reports within China (subsequently deleted) stated that a

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of the System of Placing Judgments Online in China and Its Jurisprudential Reflections], 2 Fashang Yanjiu (法商研究) [Stud. L. & Bus.] 22, 22–35 (2022) (arguing that courts should consider omitting parties' information and even the facts from online versions of court judgments); Xu Wenjin & Yao Jingyan, supra note 33, at 82–90 (discussing the right to be forgotten).

54. See, e.g., Chen Jincai, Zhang Junzhe & Ding Xiaoyu (陈金彩、张俊者、丁晓雨), Guanyu Binhai Xinqu Fayuan zai Hulianwang Gongbu Caipan Wenshu de Diaoyan yu Sikao (关于滨海新区法院在互联网公布裁判文书的调研与思考) [Investigation and Reflection on Binhai New District Court's Publishing Opinions Online], Tianjinshi Binhai Xinqu Renmin Fayuan (天津市滨海新区人民法院) [Tianjin Binhai People's Cts.] (Aug. 29, 2018), https://bhxqfy.tjcourt.gov.cn/article/detail/2018/08/id/3476013.shtml [https://perma.cc/C3CK-6MQZ] (noting the risk of copycat crimes and that courts often have different understandings of the SPC's rules regarding online publication of cases); Huang Caihua (黄彩华), Lun Caipan Wenshu Shangwang Gongkai de Chidu—Yi Huajie Shehui Maodun wei Shijiao (论裁判文书上网公开的尺度——以化解社会矛盾为视角) [Discussing the Degree of Openness of Judgments Published Online—Looking From the Perspective of Resolving Societal Conflicts], Guangdong Fayuan Wang (广东法院网) [Guangdong Cts. Online] (Oct. 9, 2018), https://www.gdcourts.gov.cn/index.php?v=show&cid=171&id=52335 [https://perma.cc/C38L-NCRQ] (arguing that publishing cases online may harm parties' privacy rights and may impede the reintegration of criminal defendants into society); Jin Lijuan (金丽娟), Guanyu Caipan Wenshu Shangwang Gongkai de Wenti ji Jianyi (关于裁判文书上网公开的问题及建议) [Issues and Recommendations Regarding Uploading Judgments Online], Renmin Fayuan Bao (人民法院报) [People's Ct. News] (Feb. 3, 2016), http://rmfyb.chinacourt.org/paper/html/2016-02/03/content_107866.htm [https://perma.cc/G9EC-PVK7] (arguing that placing cases online may also generate negative public opinion if the decisions contain errors).

55. See, e.g., Chris Buckley, Chinese Entrepreneur Takes on the System, and Drops Out of Sight, N.Y. Times (Mar. 9, 2019), https://www.nytimes.com/2019/03/09/world/asia/china-scandal-xi-jinping-private-business.html (on file with the *Columbia Law Review*) ("In China, judges answer to the party. While courts have greater autonomy than before in business disputes, they often rule in favor of officials and their allies."); Jun Mai & William Zheng, Chinese Leaders Take 'Unprecedented' Steps to Clean Up Mystery of Vanished Supreme Court Documents, S. China Morning Post (Jan. 9, 2019), https://www.scmp.com/news/china/politics/article/2181421/chinese-leaders-take-unprecedented-steps-clean-mystery-vanished (on file with the *Columbia Law Review*) (discussing the SPC's reluctance to investigate vanished documents from the long-running contract case).

56. China's Personal Information Protection Law and Data Security Law both became effective in the second half of 2021. Zhonghua Renmin Gongheguo Shuju Anquan Fa (中华人民共和国数据安全法) [Data Security Law of the People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., June 10, 2021, effective Sept. 1, 2021) 2021 Standing Comm. Nat'l People's Cong. Gaz. 951 (China); Zhonghua Renmin Gongheguo Geren Xinxi Baohu Fa (中华人民共和国个人信息保护法) [Personal

provincial-level branch of China's cyber regulator issued sixteen warnings to CJO, most likely for violating these new laws, and that Baidu, the leading Chinese search engine, temporarily blocked searches of the CJO website.[57]

Information Protection Law of the People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., Aug. 20, 2021, effective Nov. 1, 2021) 2021 Standing Comm. Nat'l People's Cong. Gaz. 1117 (China). For an argument that publication of court decisions should be handled cautiously and not affect personal rights in light of provisions on privacy in China's 2021 Civil Code and the Personal Information Protection Law, see Xinbao Zhang & Yusha Chang (张新宝、昌雨莎), Yi Gongkai Caipan Wenshu Zhong Geren Xinxi de Baohu yu Heli Liyong (已公开裁判文书中个人信息的保护与合理利用) [Protection and Reasonable Use of the Personal Information in Publicly Disclosed Court Records], 25 Huadong Zhengfa Daxue Xuebao (华东政法大学学报) [E. China U. Pol. Sci. & L.J.] no. 3, 2022, at 6, 6–21.

57. See [404 Wenku] Fakesheng Zhijia | Zhongguo Caipan Wenshu Wang Bei Liaoning Wangxinban Jinggao! Zheshi Weishenme? (【404 文库】法科生之家丨中国裁判文书网被辽宁网信办警告! 这是为什么?) [[404 Library] Home of Law Students | China Judgements Online Was Warned by Liaoning Cyberspace Administration Office! Why Is That?], China Digit. Times (Feb. 20, 2022), https://chinadigitaltimes.net/chinese/677214.html [https://perma.cc/XLL3-8CRV] (noting that the Liaoning Cyberspace Administration Office had issued sixteen warnings to websites including CJO for illicit and noncompliant online behaviors). The report also noted that some commercial providers of court data in China were rushing to delete personal information, including judges' names, from cases posted online. Id.

For reports on Baidu temporarily blocking CJO, see Li Li (李莉), Baidu Wufa Sousuo "Zhongguo Caipan Wenshu Wang," Guanfang Huiying Xi Wushan, Yi Xiufu (百度无法搜索"中国裁判文书网" 官方回应系误删、已修复) [Baidu Search Could Not Find "China Judgements Online," Official Response Says It's by Mistake, Has Been Fixed], Souhu (搜狐) [Sohu] (Feb. 21, 2022), https://www.sohu.com/a/524301687_120259137 [https://perma.cc/459H-5CRF].

Other online commentary has likewise suggested that the new laws are leading courts to remove cases and prompting commercial providers of court information to redact court data. See Huang Wenxu (黄文旭), Caipan Wenshu Gongkai Jiang Quchu Fayuan he Faguan Deng Xinxi? Leian Jiansuo yu Dashuju Fenxi de Weilai Zai Nali? (裁判文书公开将去除法院和法官等信息? 类案检索与大数据分析的未来在哪里?) [Will Information Such as Name of Courts and Judges Be Removed From Disclosed Judgment Documents? Where Is the Future of Similar Case Retrieval and Big Data Analysis?], Zhihu (知乎) [Zhihu] (Oct. 22, 2021), https://zhuanlan.zhihu.com/p/424640796 [https://perma.cc/7M3Q-XPLD] (reporting how commercial sites that provide cases were changing their practices in accordance with China's new data privacy regulations); Ma Xiaohan (马晓晗), Weishenme Wo Yinian You 50 Ge Panjue de Anzi, Caipan Wenshu Wang Weishenme Zhineng Chadao 21 Jian ne? (为什么我—年有 50 个判决的案子、裁判文书网为什么只能查到 21 件呢?) [Why Did I Only Find 21 Cases on China Judgements Online While I Have 50 Cases Decided in a Year?], Zhihu (知乎) [Zhihu] (Mar. 31, 2022), https://www.zhihu.com/question/525168479/answer/2416287911 [https://perma.cc/7D3J-MKGQ] (noting that the public posting of cases that include personal information may conflict with China's new data privacy laws); Wen Ying (文英), "Zhongbang" Caipan Wenshu Shuju Zhenggai! Lüshi Anli Jiansuo Zenmban? (「重磅」裁判文书数据整改! 律师案例检索怎么办?) ["Powerful" Court Judgments Data Rectification! How Do Lawyers Search for Cases Now?], Zhizhuo Lüshi Tuandui (执着律师团队) [Zhizhuo Legal Team] (Nov. 22, 2021), http://zhizhuo.link/?p=366 [https://perma.cc/9CDF-Q63K] (predicting that legal data platforms will be subject to stricter regulations following the enactment of the new data privacy law).

Outside of China, most accounts of the deletion of cases from commentators assume that the changes resulted from a desire to shield the Chinese legal system from external scrutiny,[58] noting that international NGOs and human rights groups had been using CJO data to report on developments in the Chinese legal system.[59] One important early account of the shift argues that the SPC is engaging in a "purge" of cases that cast the courts, and the Communist Party, in an unfavorable light.[60] Virtually all such explanations are anecdotal: Researchers run searches for individual cases that they had previously located online or search for categories of cases that they recall previously numbered in the thousands or tens of thousands.[61]

Studying cases that have disappeared presents an obvious challenge: It is not easy to see what is not there. This challenge is a new twist on an old problem. The "missingness problem"[62] has long plagued efforts to use Chinese court data. The percentage of first-instance cases made public between 2014 and 2017 (before the recent removals) ranged from 41% in civil cases to 56% in administrative cases and 67% in criminal cases.[63] Disclosure rates vary widely across courts and even within courts depending on whether cases are civil, criminal, or administrative.[64]

Although reports of the SPC removing entire categories of cases from the CJO site did not surface until 2021, there were signs in 2019 and 2020 that the SPC was seeking to restrict the use of court data. The SPC first required real-name registration based on phone numbers for users

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58. See, e.g., Luo & Kellogg, supra note 11 ("It seems clear that the SPC views certain kinds of cases as embarrassing to the Party: Some of the purged cases highlight official corruption or illustrate the Party's use of the criminal justice system to crack down on its critics.").

59. For example, in a 2022 complaint to the WTO, the European Union noted the apparent lack of availability on CJO of decisions in which Chinese courts have issued anti-suit injunctions in intellectual property cases. Request for the Establishment of a Panel by the European Union, China—Enforcement of Intellectual Property Rights, para. 2.1, WTO Doc. WT/DS611/5 (Dec. 9, 2022), https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/611-5.pdf&Open=True [https://perma.cc/L3QM-GZK4].

60. See Luo & Kellogg, supra note 11 ("[T]he SPC wants its transparency mechanisms to paint a picture of a fair and benevolent CCP, and a healthy and wholesome Chinese society. Many verdicts that cut against that idyll have been removed.").

61. See, e.g., id. (noting that a search for cases related to "picking quarrels" yielded tens of thousands of results in May 2020, but no results in February 2022).

62. See Liebman et al., supra note 13, at 185 (defining the "missingness problem" as the variation in Chinese court compliance with the national disclosure mandate).

63. See Wu et al., supra note 37, at 19.

64. See id. at 4 ("Even within one court there may be very different levels of transparency for different types of cases."). Each Chinese court is generally divided into divisions or tribunals depending on the type of case: civil, criminal, or administrative. See id. at 8. A fourth substantive division, the enforcement division, is responsible for post-judgment enforcement of decisions. Id. Judges are assigned to particular divisions and thus generally hear cases only within that subject area. Id. Administrative tribunals hear lawsuits against state actors as well as cases brought by administrative agencies seeking compulsory enforcement of fines and other sanctions imposed by the agency. See id. at 47–51.

accessing the website in September 2020.[65] The CJO website also began limiting the number of results users could view from any search to 600 cases[66] and restricting each user's daily downloads.[67] In addition, CJO reportedly deployed new technology to block the scraping of its website and imposed new limitations on commercial providers who sought to replicate CJO's content with better functionality and greater marketability to lawyers and litigants.[68] Many of these sites went offline in 2021, with at least some of those that remain redacting case numbers and court and judge names, thus offering less functionality than the CJO website.[69]

The recent case deletions and the new restrictions on CJO searches reflect a broader tightening of control in China in the past decade. China under Xi Jinping has retreated from many of the governance reforms of earlier periods that embraced transparency and made efforts to promote open government.[70] China under Xi has seen a reassertion of top-down

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65. See Luo Sha (罗沙), Zhonguo Caipan Wenshuwang Wenshu Zongliang Tupo 1 Yi Pian (中国裁判文书网文书总量突破 1 亿篇) [The Total Number of Documents on CJO Has Exceeded 100 Million], Xinhua She (新华社) [Xinhua News Agency] (Sept. 2, 2020), http://m.xinhuanet.com/2020-09/02/c_1126444909.htm [https://perma.cc/JWM8-A4NK] (describing the "upgrade" to the CJO requiring phone verification).

66. Stern et al., Automating Fairness, supra note 18, at 552 n.132.

67. In conducting the research for this Essay, we repeatedly encountered situations in which searches would be blocked after repeated searches on the same day. The precise number of searches or downloads that triggers such a block is unclear.

68. Stern et al., Automating Fairness, supra note 18, at 549, 552 n.132; Zuigao Renmin Fayuan (最高人民法院) [Supreme People's Ct.], Guanyu "Zhonguo Caipan Wenshuwang" Wangzhan Jianshe Jianyi De Dafu (关于"中国裁判文书网"网站建设建议的答复) [Reply Regarding Recommendations Regarding the Construction of the "China Judgements Online" Website], Hangzhou Laodong Zhengyi Wang (杭州劳动争议网) [Hangzhou Lab. Disp. Website] (Feb. 19, 2019), http://www.hzldzy.com/detail-4272.html [https://perma.cc/H5ZY-73DG] (stating that "crawler systems" prompted the introduction of new measures designed to improve user experience, apparently through user restrictions).

69. See Huang Wenxu, supra note 57; Wen Ying, supra note 57.

70. Jieun Kim, Rachel E. Stern, Benjamin L. Liebman & Xiaohan Wu, Closing Open Government: Grassroots Policy Conversion of China's Open Government Information Regulation and Its Aftermath, 55 Compar. Pol. Stud. 319, 332–36 (2022) (summarizing how judicial decisions began to restrict Open Government Information litigation starting in late 2015). One article published at the end of Xi's first term in 2018 noted that there appeared to be no reduction in transparency, despite the reassertion of centralized political control. Deborah Seligsohn, Mengdi Liu & Bing Zhang, The Sound of One Hand Clapping: Transparency Without Accountability, 27 Env't Pol. 804, 806 (2018). We are not aware of any scholarship that has sought empirically to analyze reductions in transparency under Xi. But recent media accounts have suggested that formerly public databases are becoming more difficult to access and that China's leading academic database, CNKI, has come under pressure to curate what is available and to restrict access from overseas. See, e.g., Stella Chen & David Bandurski, CNKI's Security Problem, China Media Project (July 6, 2022), https://chinamediaproject.org/2022/07/06/cnkis-security-problem/ [https://perma.cc/8A7Z-82F4] ("Even if the trivial details discussed in publications [on CNKI] are prima facie non-sensitive, they can, taken collectively, help researchers piece together various aspects of Chinese politics, governance, society, industrial strategies and so on."); Stephanie Yang, As China Shuts Out the World, Internet Access From Abroad Gets Harder Too, L.A. Times (June 23, 2022), https://www.latimes.com/world-nation/story/2022-06-23/china-great-

control, a merging of Communist Party and state functions, and an emphasis on data security.[71] The 2014 Fourth Plenum Decision of the Eighteenth Communist Party Congress, the primary document setting forth legal reforms during Xi Jinping's first term in office, made repeated references to the importance of transparency and "sunshine."[72] In contrast, neither a major 2021 speech by Xi on the rule of law nor numerous articles by senior officials and theorists analyzing the speech made any reference to transparency.[73] Although official court documents

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firewall-foreign-domestic-virtual-censorship (on file with the *Columbia Law Review*) ("[M]any researchers who have experienced [data access] challenges suspect that their limited access is part of China's attempt to ward off what it sees as international meddling, and present its own tightly controlled narrative to the outside world.").

71. See Stern et al., Automating Fairness, supra note 18, at 552–53 (discussing how the emergence of data security as a societal value mirrors the Communist Party approach to control); see also Liebman et al., supra note 13, at 182–83 (noting how Chinese legal policies regarding court document transparency serve Communist Party judicial control functions).

72. See Zhonggong Zhongyang Guanyu Quanmian Tuijin Yifa Zhiguo Ruogan Zhongda Wenti de Jueding (中共中央关于全面推进依法治国若干重大问题的决定) [Chinese Communist Party Central Committee Decision Concerning Some Major Questions in Comprehensively Moving Forward With Governing the Country According to the Law], Zhongguo Gongchandang Xinwen Wang (中国共产党新闻网) [China Communist Party News Network] (Oct. 29, 2014), http://cpc.people.com.cn/n/2014/1029/c64387-25927606.html [https://perma.cc/245N-GJRG].

73. Xi Jinping (习近平), Jianchi Zou Zhongguo Tese Shehui Zhuyi Fazhi Tixi Daolu, Genghao Tuijin Zhongguo Tese Shehuizhuyi Fazhi Jianshe (坚持走中国特色社会主义法治道路 更好推进中国特色社会主义法治体系建设) [Steadfastly Walk the Road of Socialist Rule of Law With Chinese Characteristics to Better Promote the Construction of the System of Socialist Rule of Law With Chinese Characteristics], Qiushi (求是) [qstheory.cn] (Feb. 15, 2022), http://www.qstheory.cn/dukan/qs/2022-02/15/c_1128367893.htm [https://perma.cc/MBD3-HBGE]. For commentary on the speech by other Party officials, see Chen Yixin (陈一新), Shenxue Jianxing Xi Jinping Fazhi Sixiang, Genghao Tuijin Zhongguo Tese Shehui Zhuyi Fazhi Tixi Jianshe (深学笃行习近平法治思想 更好推进中国特色社会主义法治体系建设) [Deeply Learn and Implement Xi Jinping Thought on the Rule of Law, Better Promote the Construction of the System of Socialist Rule of Law With Chinese Characteristics], Qiushi (求是) [qstheory.cn] (Feb. 16, 2022), http://www.qstheory.cn/dukan/qs/2022-02/16/c_1128368106.htm [https://perma.cc/2YEH-6CUS]; Zhang Jun (张军), Jianchi yi Xi Jinping Fazhi Sixiang Wei Zhiyin, Jiaqiang Xinshidai Jiancha Jiguan Falü Jiandu (坚持以习近平法治思想为指引 加强新时代检察机关法律监督) [Steadfastly Under the Guidance of Xi Jinping Thought on the Rule of Law, Strengthen Legal Oversight on the Procuratorate System in the New Era], Qiushi (求是) [qstheory.cn] (Feb. 16, 2022), http://www.qstheory.cn/dukan/qs/2022-02/16/c_1128368060.htm [https://perma.cc/EL6V-FTAA]; Zhou Qiang (周强), Zai Xi Jinping Fazhi Sixiang Zhiyinxia, Fenli Tuijin Xinshidai Sifa Weimin Gongzheng Sifa (在习近平法治思想指引下 奋力推进新时代司法为民公正司法) [Under the Guidance of Xi Jinping Thought on the Rule of Law, Strive to Promote Justice for the People and Fair Justice in the New Era], Qiushi (求是) [qstheory.cn] (Feb. 16, 2022), http://www.qstheory.cn/dukan/qs/2022-02/16/c_1128368020.htm [https://perma.cc/7Q9V-SDDZ].

Likewise, a search for the term "judicial openness" (司法公开) in the *People's Daily* online database of Xi Jinping's major speeches shows ten references to "judicial openness" between 2014 and 2018 and zero since 2018. Sifa Gongkai (司法公开) [Judicial Openness], Xi Jinping: Xilie Zhongyao Jianghua Shujuku (习近平：系列重要讲话数据库) [Xi Jinping: Series of Important Speeches Database] (July 2, 2022), http://jhsjk.people.cn/result?

continue to emphasize the importance of transparency,[74] courts have also stepped up efforts to control both which cases are made public and how they are used.[75] In contrast, the term "data security" has come to the fore in political discourse.[76]

II. TRANSPARENCY AND CENSORSHIP AS TOOLS FOR INFORMATION MANAGEMENT

Although most discussion has framed the removal of cases from CJO primarily in terms of censorship, the SPC's management of judicial disclosure intersects with at least three scholarly conversations: those about authoritarian transparency, about the tools China uses to censor, and about how authoritarian states manage information to maintain and project authority and power. This Part provides a brief overview of each of these literatures, both to frame the discussion that follows and to highlight gaps in the literature on how courts, particularly those in authoritarian states, manage information.

Why would an authoritarian state embrace even limited forms of transparency? Explanations for authoritarian regimes' embrace of transparency have largely been top-down and instrumental, treating authoritarian states as rational actors making a strategic decision to address domestic governance challenges by embracing limited forms of transparency.[77] The embrace of transparency by authoritarian regimes in the early 2000s came against the backdrop of a global spread of transparency and allowed marketizing nonliberal regimes to align

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keywords=%E5%8F%B8%E6%B3%95%E5%85%AC%E5%BC%80&isFuzzy=0 [https://perma. cc/4SWC-MZ3W]. Similarly, references to the term "transparency" (透明度) in Xi's speeches dropped significantly after 2018, with thirty-four references between 2013 and 2018 and only seven mentions of the word after 2018. Toumingdu (透明度) [Transparency], Xi Jinping: Xilie Zhongyao Jianghua Shujuku (习近平:系列重要讲话数据库) [Xi Jinping: Series of Important Speeches Database] (Aug. 28, 2023), http://jhsjk.people.cn/result?keywords=%E9%80%8F%E6%98%8E%E5%BA%A6&isFuzzy=0 [https://perma.cc/JXA9-SUDH].

74. See SPC Party Group, Step Forward, supra note 16 (noting that the Chinese courts' integrated web-based platform for case handling allows for comprehensive online processing and full procedural transparency).

75. Stern et al., Automating Fairness, supra note 18, at 519 (detailing how Chinese government agencies are partnering with technology companies to maintain control over the use of official data).

76. A search for the term "data security" in Xi's speeches yields fifty-one results, all but four of which were since 2017. Shuju Anquan (数据安全) [Data Security], Xi Jinping: Xilie Zhongyao Jianghua Shujuku (习近平:系列重要讲话数据库) [Xi Jinping: Series of Important Speeches Database] (Sept. 17, 2022), http://jhsjk.people.cn/result?keywords=%E6%95%B0%E6%8D%AE%E5%AE%89%E5%85%A8&isFuzzy=0 [https://perma.cc/PL8A-T66R].

77. See, e.g., Edmund Malesky, Paul Schuler & Anh Tran, The Adverse Effects of Sunshine: A Field Experiment on Legislative Transparency in an Authoritarian Assembly, 106 Am. Pol. Sci. Rev. 762, 762 (2012) (noting how transparency of policymaking in national legislatures may lead to beneficial effects for authoritarian regimes in maintaining control).

themselves with perceived global norms.[78] Benefits of enhanced transparency to authoritarian rulers include strengthening state legitimacy, enhancing oversight over lower-level actors to curb corruption, developing mechanisms for citizen input without democratizing, and economic development.[79] Scholars writing on China have argued that the embrace of transparency has become a key feature of Chinese governance that is central to China's economic success and political durability.[80] Courts are mostly absent from this literature, largely because court

78. For example, in the early 2000s, China made numerous governmental transparency commitments to satisfy the requirements for accession to the WTO. Ming Du & Qingjian Kong, Explaining the Limits of the WTO in Shaping the Rule of Law in China, 23 J. Int'l Econ. L. 885, 893–94 (2020).

79. See Gary Rodan, Transparency and Authoritarian Rule in Southeast Asia: Singapore and Malaysia 73–78 (2004) (arguing that Singapore's embrace of transparency in its private industries has been qualified and has been prompted by economic need); Jonathan Stromseth, Edmund Malesky & Dimitar Gueorgulev with Lai Hairong, Wang Xixin & Carl Brinton, China's Governance Puzzle: Enabling Transparency and Participation in a Single-Party State 10 (2017) ("Seen from the regime's vantage point, however, we consider China's turn towards transparency and open decision-making not as a stepping stone towards greater democracy but as a response to rampant corruption and weak rule of law—problems that the regime itself admits threaten its survival."); Lei Chen et al., supra note 36, at 731 (arguing that autocrats utilize government transparency to focus public scrutiny on lower-tier officials and consequently motivate them into controlled action); Benjamin Liebman & Curtis J. Milhaupt, Reputational Sanctions in China's Securities Markets, 108 Colum. L. Rev 929, 980 (2008) ("The media are perhaps the most effective regulator of corporate wrongdoing in China today."); Lorentzen et al., supra note 20, at 191–92 (arguing that powerful Chinese firms have impeded Open Government Information efforts, at least in the arena of environmental policy); Malesky et al., supra note 77, at 784 (showing that transparency can be used by leaders in authoritarian regimes to coerce delegates into greater compliance); Seligsohn et al., supra note 70, at 805 ("There is . . . a rich literature on how autocrats use information in the form of the media or citizen communications . . . to monitor local-level bureaucrats, to monitor and diffuse collective action, to improve citizens' attitudes toward the regime, and even through monitoring to improve local government performance."); Robert G. Vaughn, Transparency in the Administration of Laws: The Relationship Between Differing Justifications for Transparency and Differing Views of Administrative Law, 26 Am. U. Int'l L. Rev. 969, 971 (2011) ("Transparency can also be viewed as enabling market choices."). Scholars have also noted that transparency can pose risks to authoritarian regimes. See, e.g., James R. Hollyer, B. Peter Rosendorff & James Raymond Vreeland, Transparency, Protest, and Autocratic Instability, 109 Am. Pol. Sci. Rev. 764, 764–65 (2015) ("We contend that, under autocratic rule, the availability of public economic information—which we term transparency—facilitates collective action and so renders regimes more vulnerable to threats from below.").

80. Fu Hualing, Michael Palmer & Zhang Xianchu, Introduction: Selectively Seeking Transparency in China, *in* Transparency Challenges Facing China, supra note 39, at 1, 3 (arguing that "transparency is seen as an indispensable ingredient in the China reform process"). Scholars have also noted that China's transparency is often limited and is not a means of granting rights to the public. See, e.g., Benjamin L. Liebman, The Media and the Courts: Towards Competitive Supervision?, 208 China Q. 833, 840–42 (2011) (arguing that media is often used as a mouthpiece of the Party-State in high profile cases); Zhang Xianchu, Challenge to China's Socialist Market Economy, *in* Transparency Challenges Facing China, supra note 39, at 20, 42–43 (noting that the Chinese Communist Party has sought to "control transparency" to meet its "defined political needs").

transparency efforts came somewhat later than government transparency initiatives.[81]

This expanding literature on the importance of transparency to authoritarian regimes developed with almost no discussion of the largely contemporaneous literature on the "dark sides" of transparency that emerged in writing about transparency in Western liberal systems.[82] Yet there is a common theme that links these literatures: Transparency is a tool that can be used to advance a range of interests, not a value itself.[83] In the United States, recent writing has noted how the Freedom of Information Act (FOIA) has been weaponized to serve special interests.[84] In China, by contrast, various transparency initiatives have always aimed to serve the interests of the Party-State, although China's own open-government regulations have also produced some unexpected nonstate uses, followed by state retrenchment.[85] The fact that transparency remains ill defined and slippery[86] in the liberal democratic context also helps to make it easily adaptable for use by authoritarian states.[87]

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81. Susan Finder's work is one exception. See generally Finder, supra note 39 (discussing a range of court transparency efforts in China).

82. See James D'Angelo, The Dark Side of Sunshine, Cong. Rsch. Inst. (Aug. 2017), https://congressionalresearch.org/DarkSide.html [https://perma.cc/X6TE-FFSZ] (arguing that transparency and legislative accountability are the antithesis of democracy); David E. Pozen, Seeing Transparency More Clearly, 80 Pub. Admin. Rev. 326, 326 (2019) [hereinafter Pozen, Seeing Transparency More Clearly] (noting that recent scholarship has focused on the negative aspects of transparency in liberal regimes, including declines in deliberation, dealmaking, and regulatory capacity).

83. See Pozen, Seeing Transparency More Clearly, supra note 82, at 326 ("[T]ransparency is not, in itself, a coherent normative ideal.").

84. See, e.g., Pozen, Transparency's Ideological Drift, supra note 21, at 118–27 (arguing that there has been an "ideological drift" in the use of FOIA from its progressive historical roots toward more libertarian goals of limiting or blocking government action).

85. See Kim et al., supra note 70, at 320–21 ("China's experience with [Open Government Information] litigation offers a vantage point to watch a state-society feedback loop . . . in which the boundaries of political participation were first expanded through thousands of uncoordinated lawsuits and then narrowed though court decisions and rule-making designed to solve the perceived problem of 'abusive' litigation.").

86. See Pozen, Transparency's Ideological Drift, supra note 21, at 104 ("[T]ransparency is a protean concept that may be invoked in a wide range of settings for a wide range of ends.").

87. Scholarship on transparency in China and in Western liberal systems focuses overwhelmingly on government transparency, not court or legal system transparency. See, e.g., Kim et al., supra note 70, at 320 (discussing the lack of attention on information demanded in an authoritarian context generally). Writing on the limits of legal transparency in the United States and in some other liberal legal systems reflects a different academic conversation. This is not only because court transparency is well-established, but also because those advocating for greater transparency in and about the U.S. legal system are pushing for more transparency about outputs, not disclosure of internal court deliberations or rationales. See, e.g., Ellis, supra note 8, at 940–42 ("By judicial transparency, I simply mean the general public's ability to . . . examine the results of the [judicial] process as may be reflected in a judge's decision or opinion and a jury's verdict."). This scholarly disconnect also reflects the impact of FOIA and similar statutes globally, which often

The scholarly discussion about authoritarian transparency is also largely disconnected from analysis of censorship and information control in authoritarian regimes: There is little recognition in the existing literature that transparency efforts are also mechanisms for managing the flow of information. There is thus little overlap between scholarship on transparency in authoritarian regimes and scholarship on censorship. Recent writing on censorship focuses on how China has adapted existing tools of information control to a commercialized media marketplace and social media.[88] Strategies include information flooding to crowd out negative voices; focusing on the threat of collective action rather than solitary critics or individual grievances; and the creation of friction, making access to information outside the firewall difficult, but not impossible.[89] Critical reporting on social ills is tolerated, up to a point.[90] There are signs that this approach has shifted under Xi Jinping, with more reports of individuals being punished for isolated online criticism of the Party-State even absent a threat of collective action.[91] But the focus on collective action and information flooding has remained, with the Party-State relying on commercial information providers to do most of the censorship.[92]

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exclude court information from open-government rules. Youm & Mendel, supra note 22, at 254–55 ("[FOIA] does not apply to the legislature or the courts."); Pozen, Transparency's Ideological Drift, supra note 21, at 158 n.259 (noting the exclusion of the courts from FOIA and transparency tools in the United States). In contrast, discussion of transparency initiatives in China's courts fits into existing conversations about government transparency in China due to their common goals of rooting out malfeasance and standardizing outcomes.

88. See Roberts, Censored, supra note 2, at 104–05, 223–24 ("The Chinese government aggressively expanded Internet access . . . as the CCP saw [this] as linked to economic growth . . . . Yet as it was pursuing greater connectivity, the government simultaneously developed methods of online information control that would allow it to channel information online.").

89. See id. at 93, 108–09 (describing China's deployment of friction- and flooding-based models of censorship); see also Gary King, Jennifer Pan & Margaret E. Roberts, How Censorship in China Allows Government Criticism but Silences Collective Expression, 107 Am. Pol. Sci. Rev. 326, 338–39 (2013) (discussing the suppression of collective action as a strategy of information control).

90. See Bei Qin, David Strömberg & Yanhui Wu, Why Does China Allow Freer Social Media? Protests Versus Surveillance and Propaganda, 31 J. Econ. Persps. 117, 123–27 (2017) (finding that social media posts discussing protest are common).

91. See Nector Gan & Steve George, The Communist Party Thinks China's Prolific Censors Are Not Censoring Enough, CNN Bus. (Dec. 15, 2021), https://www.cnn.com/2021/12/15/tech/china-weibo-censorship-fine-mic-intl-hnk/index.html [https://perma.cc/K4YJ-EL6C] ("Under President Xi Jinping, the party has tightened its control of the internet . . . . Today, most liberal voices have been silenced.").

92. See Steven Lee Myers, China's Search Engines Have More Than 66,000 Rules Controlling Content, Report Says, N.Y. Times (Apr. 26, 2023), https://www.nytimes.com/2023/04/26/business/china-censored-search-engine.html (on file with the *Columbia Law Review*) (discussing the extensive number of restrictions imposed on e-commerce and social media sites).

A related strand of recent scholarship has begun to look beyond how authoritarians censor information to how they manipulate information to engineer popularity and create an illusion of democracy—"substituting spin for fear."[93] Although the leading work largely treats China as a more traditional rule-by-fear regime,[94] not a modern "spin dictatorship," there is also growing attention to how China seeks to use its discourse power to project power within and beyond its own borders.[95] The role of legal information is absent from this literature, reflecting a focus on how authoritarian states manage information—not on how specific institutional actors within such states do so. Some within China's courts have argued that maintaining judicial authority requires close management of media coverage and propaganda work,[96] but no scholarship of which we are aware has examined the ways in which courts are actively embracing this approach.

III. METHODS AND DESCRIPTIVE STATISTICS

Which previously public cases have been deleted from the CJO website, and why? To answer this, we explored two questions. First, we sought to understand changes in the total number of cases available on CJO by case category—criminal, administrative, and civil. Second, we examined which specific types of criminal cases were deleted. We focused on criminal cases for a number of reasons. First, criminal cases were the substantive area with the highest percentage of cases previously made public. Further, criminal cases showed the greatest percentage decline in previously public cases available on CJO between 2020 and 2021.[97] Criminal law also involves the direct exercise of state power to maintain political order and is thus one good starting place to understand which cases are removed and why.[98] Because our dataset contains all 42 million

93. Guriev & Treisman, supra note 1, at 22.

94. Id. at 25–26.

95. See, e.g., Julia Gurol, The Authoritarian Narrator: China's Power Projection and Its Reception in the Gulf, 99 Int'l Affs. 687, 687 (2023) (investigating how the Chinese government employed "information-manipulation campaigns" to bolster its image among the Gulf states).

96. See, e.g., Zhang Weiran & Gao Kai (张蔚然、高凯), Zuigaofa Yaoqiu Qianghu Xinwen Zhizheng Yishi, Guanjian Shike bu Shiyu (最高法要求强化新闻执政意识 关键时刻不失语) [SPC Requires Strengthening the Awareness of News Governance Instead of Silence at Critical Moments], Zhongguo Xinwen Wang (中国新闻网) [China News] (July 27, 2010), https://news.qq.com/a/20100727/001427.htm [https://perma.cc/9P6F-WG45].

97. See infra Table 2.

98. Malcolm Thorburn, Criminal Law as Public Law, *in* Philosophical Foundations of Criminal Law 21, 23 (R.A. Duff & Stuart P. Green eds., 2011) (noting the "uniquely coercive and state-dominated nature of the criminal justice system"). We extracted 374 criminal causes of action and 779 civil causes of action from our data. Both criminal and civil causes of action are relatively easy to parse. But the larger number of civil causes of action, the fact that many civil cases include numerous causes of action, and courts' inconsistent practices for labeling civil causes of action, make data cleaning and matching causes of action more

cases made public between January 1, 2014, and September 2, 2018, our focus is on that period.

A. *Changes in Total Available Cases*

We began by comparing the total number of search results for civil, criminal, and administrative cases decided from 2013 to 2018 with the numbers available on the CJO website on two search dates in August 2020 and July 2021.[99] The CJO website updates daily, with tens of thousands of new cases being added most days.[100] Any decrease over time in the total number of cases available from a particular year strongly suggests a policy of deleting cases that have previously been made public.

Table 2 sets forth our findings from this first step. Searching CJO in 2020 and 2021 for the total number of available criminal judgments by decision year revealed that the total number of publicly available criminal judgments decided between 2013 and 2018 decreased by nine percent, or 633,153 cases.[101] This suggests that a significant number of previously public criminal decisions were removed. We believe that the volume of removals strongly suggests a policy of categorical, not case-by-case, removals for reasons further explained below.[102]

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difficult in civil cases. We face a different problem in parsing administrative causes of action. Administrative causes of action often do little to differentiate the cases (and judges note that the classification of administrative cases is often somewhat arbitrary). Administrative and civil cases may also reveal sensitive areas, and future work may wish to repeat our analysis of deleted criminal cases for civil and administrative cases.

99. CJO allows users to filter cases by province, year, court, and various combinations of cause of action or case type. CJO, supra note 9.

100. See supra note 15 and accompanying text.

101. The total number of cases available decreased for each year from 2013 through 2018, suggesting that the decrease is not the result of older cases being taken down after being available online for a certain period of time.

102. The total number of publicly available administrative cases decided between 2013 and 2018 also decreased from 2020 to 2021, by just over five percent, or 109,194 cases. In contrast, the total number of civil cases available for the years 2013 to 2018 increased slightly from 2020 to 2021, likely reflecting cases that were delayed in being uploaded because they were pending on appeal.

TABLE 2. TOTAL NUMBER OF CASES AVAILABLE BY DECISION YEAR (2013–2018) ON CJO BY SEARCH DATE AND CASE TYPE[103]

	Decision Year	Search Year		% Change
		2020	2021	
Civil	2013	1,013,625	1,021,098	0.737
	2014	4,569,623	4,561,925	-0.168
	2015	6,177,322	6,169,354	-0.129
	2016	7,628,756	7,901,220	3.572
	2017	10,692,305	10,678,079	-0.133
	2018	12,293,870	12,373,175	0.645
	2013–2018	**42,375,501**	**42,704,851**	**0.777**
Criminal	2013	203,038	186,947	-7.925
	2014	932,442	852,334	-8.591
	2015	1,022,861	933,685	-8.718
	2016	1,624,573	1,464,395	-9.86
	2017	1,514,292	1,381,608	-8.762
	2018	1,565,720	1,410,804	-9.894
	2013–2018	**6,862,926**	**6,229,773**	**-9.226**

103. Searches for cases available as of 2020 were run on August 20, 2020, and searches for 2021 were run on July 20, 2021.

	Decision Year	Search Year		% Change
		2020	2021	
Administrative	2013	44,913	37,684	-16.096
	2014	195,898	172,122	-12.137
	2015	300,274	264,905	-11.779
	2016	410,071	392,295	-4.335
	2017	501,335	488,398	-2.581
	2018	549,234	537,127	-2.204
	2013–2018	**2,001,725**	**1,892,531**	**-5.455**
Total[104]	2013	1,454,519	1,431,169	-1.605
	2014	7,139,563	6,965,847	-2.433
	2015	9,989,680	9,780,316	-2.096
	2016	12,711,766	12,792,885	0.638
	2017	16,831,074	16,670,179	-0.956
	2018	19,304,166	19,260,091	-0.228
	2013–2018	**67,430,768**	**66,900,487**	**-0.786**

We reran this analysis a third time in June 2022 to see if any additional cases from the 2013 to 2018 period had been removed since our original analysis in July 2021. Table 3 shows the results. The total number of criminal cases available on CJO for the 2013 to 2018 period increased by 2.6% from 2021 to 2022. In contrast, the number of civil and administrative cases declined slightly. At first glance, the numbers suggest that some previously removed criminal cases from 2014 to 2018 might have

104. "Total" includes the three primary categories of cases, as well as state compensation cases, which decreased by 2.7% over the period, and enforcement cases, which decreased by 0.7%.

been reposted. Yet even this modest increase in criminal cases is likely not the result of previously deleted cases being reposted. As shown in Table 4, an analysis of first-instance (trial court) criminal cases shows no increase in the number of cases available online for decision years 2013 to 2017.[105] The number of first-instance criminal cases available in June 2022 declined slightly for each year from 2013 to 2018 when compared to the number available in 2021. The increase in available criminal cases in 2022 appears to be due to an increase in the number of sentence modification cases[106] and appellate decisions posted to CJO, as shown in Table 5.[107]

105. See infra Table 4. Table 4 also shows official statistics for the number of first-instance criminal cases decided by all courts in China for the same years.

106. Sentence modification cases are post-conviction requests to have a sentence reduced. Such determinations are generally made by the court in the jurisdiction in which the convicted individual is serving a sentence. See Zuigao Renmin Fayuan Guanyu Jianxing, Jiashi Anjian Shenli Chengxu de Guiding, Fashi [2014] Wu Hao (最高人民法院关于减刑、假释案件审理程序的规定、法释【2014】5 号) [Regulation of the Supreme People's Court on the Procedures for Trying Cases of Commutation and Parole, Judicial Interpretation No. 5 [2014]], art. 1 (promulgated by the Judicial Comm. Sup. People's Ct., Apr. 10, 2014, effective June 1, 2014) Sup. People's Ct. Gaz., Apr. 23, 2014, http://gongbao.court.gov.cn/Details/6ec336c44af7a4380cfcc002503b97.html [https://perma.cc/D7ML-4QBS] (China).

107. Comparing the number of sentence modification decisions and second-instance (appellate) decisions on CJO to the numbers in our database for the years from 2013 through 2018 reveals that in July 2022, CJO included a large number of decisions not in our database—suggesting they were made public after we stopped updating our dataset in 2018. We did not scrape information on sentence modification decisions in 2021 and thus cannot compare the number of sentence modification cases available in 2022 to the number available in 2021. But our review of a sample of such cases suggests that a large number were posted in the second half of 2021, just as the deletion of criminal cases was drawing scrutiny. Did the SPC order that sentence modification decisions be uploaded to compensate for the removal of other criminal decisions? We have no way of being certain, and the SPC has been calling for courts to make all sentence modification decisions public online since 2014. "Wuge Yilü" Jian Shixiao, "Jian Jia Zan" Anjian Geng Touming ("五个一律"见实效 "减假暂"案件更透明) ["Five Uniforms" See Effectiveness, "Sentence Modification and Probation" Cases Become More Transparent], Renmin Fayuan Bao (人民法院报) [People's Ct. News] (Feb. 14, 2015), http://rmfyb.chinacourt.org/paper/html/2015-02/14/content_94023.htm?div=-1 [https://perma.cc/5EU8-QAC3]. CJO shows an even larger increase in the number of criminal appeals over the same period, perhaps reflecting renewed efforts to post appellate cases online. Nevertheless, the data suggest that first-instance cases continue to be removed.

TABLE 3. TOTAL NUMBER OF CASES AVAILABLE BY DECISION YEAR (2013–2018) ON CJO BY SEARCH DATE AND CASE TYPE[108]

	Decision Year	Search Year		% Change
		2021	2022	
Civil	2013	1,021,098	1,018,330	-0.271
	2014	4,561,925	4,541,959	-0.438
	2015	6,169,354	6,150,994	-0.298
	2016	7,901,220	7,583,262	-4.024
	2017	10,678,079	10,665,089	-0.122
	2018	12,373,175	12,368,361	-0.039
	2013–2018	**42,704,851**	**42,327,995**	**-0.882**
Criminal	2013	186,947	190,114	1.694
	2014	852,334	887,249	4.096
	2015	933,685	971,686	4.07
	2016	1,464,395	1,507,689	2.956
	2017	1,381,608	1,396,862	1.104
	2018	1,410,804	1,438,390	1.955
	2013–2018	**6,229,773**	**6,391,990**	**2.604**

108. Searches for cases available as of 2021 were run on July 20, 2021, and searches for 2022 were run on July 27, 2022.

	Decision Year	Search Year		% Change
		2021	2022	
Administrative	2013	37,684	37,574	-0.292
	2014	172,122	171,296	-0.48
	2015	264,905	263,090	-0.685
	2016	392,295	389,183	-0.793
	2017	488,398	484,695	-0.758
	2018	537,127	532,141	-0.928
	2013–2018	**1,892,531**	**1,877,979**	**-0.769**
Total[109]	2013	1,431,169	1,433,891	0.19
	2014	6,965,847	6,990,520	0.354
	2015	9,780,316	9,812,880	0.333
	2016	12,792,885	12,620,079	-1.351
	2017	16,670,179	16,804,272	0.804
	2018	19,260,091	19,420,563	0.833
	2013–2018	**66,900,487**	**67,082,205**	**0.272**

109. "Total" also includes state compensation and enforcement cases.

TABLE 4. TOTAL NUMBER OF CRIMINAL FIRST-INSTANCE (TRIAL) CASES AVAILABLE ON CJO, COLUMBIA/UNIVERSITY OF CALIFORNIA (UC) DATABASE, AND OFFICIAL STATISTICS[110]

	Number of Available Cases in Decision Year			
	Official Statistics	Columbia/UC Database	CJO Aug. 2021	CJO June 2022
2013	953,977	180,814	166,376	166,153
2014	1,023,017	773,367	715,124	714,276
2015	1,099,205	815,723	762,622	761,805
2016	1,115,873	820,734	842,629	841,080
2017	1,296,650	782,588	958,641	956,951

TABLE 5. COMPARISON OF SENTENCE MODIFICATION (刑更) AND CRIMINAL APPEAL (刑终) CASES ON CJO AND COLUMBIA/UC DATABASE

	Number of Available Cases in Decision Year			
	Sentence Modification (刑更)		Criminal Appeals (刑终)	
	Columbia/UC Database	CJO July 2022	Columbia/UC Database	CJO July 2022
2013	4,591	2,603	6,568	11,644
2014	27,454	43,820	39,536	68,252
2015	44,699	57,756	51,122	86,767
2016	550,617	552,184	101,147	98,458
2017	277,505	306,994	103,918	112,374
Total	**904,866**	**963,357**	**302,291**	**377,495**

110. "Official statistics" reflects the total number of first-instance cases handled by Chinese courts in a given year as reported in the annual China Law Yearbook (中国法律年鉴). "Zhongguo Falü Nianjian" She (《中国法律年鉴》社) [China Law Yearbook Publishing House], Zhongguo Faxuehui (中国法学会) [China L. Soc'y], https://www.chinalaw.org.cn/portal/list/index/id/45.html [https://perma.cc/9YP6-6KZN] (last visited Aug. 29, 2023). We explore transparency rates in more detail elsewhere. Wu et al., supra note 37.

B. *Removal of Criminal Cases by Crime Type*

Our second step was to measure and analyze which criminal cases were deleted. We focus on first-instance (trial) criminal cases.[111] We compared the number of publicly available cases as of July 2021 for each of the 405 crime categories listed on the CJO website[112] for the years 2013 to 2017 with the number of cases in our database (referred to here as the "Columbia/UC database"). We focused on cases from decision years 2015 and 2016 involving crimes for which the CJO website (surveyed in July 2021) contained at least one-third fewer cases than the number of cases in our database (Table 6), and we limited our analysis to crimes for which we had more than ten cases in either 2015 or 2016 in our database.[113] We read a random sample of fifty cases for each of these crime types[114] and also manually audited the cases in our random sample to confirm whether these cases had been deleted.[115]

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111. In China, "first-instance" refers to the original trial, while "second-instance" refers to appellate decisions. Chenyang Zhang, 2+1+1: China's Hierarchical Trial System for Civil Cases, China Just. Observer (June 29, 2019), https://www.chinajusticeobserver.com/a/2-1-1-chinas-hierarchical-trial-system-for-civil-cases [https://perma.cc/WM7T-YALR]. Most criminal trials are heard by basic-level county or (in cities) district courts, but some more serious crimes are tried in intermediate courts. Chenyang Zhang, Magnificent Four-Level Pyramid—China's Court System, China Just. Observer (May 18, 2019), https://www.chinajusticeobserver.com/insights/magnificent-four-level-pyramid-chinas-court-system.html [https://perma.cc/SSF6-ZV33].

112. This figure of 405 crime types includes both categories of crimes and specific crimes. For example, the category of "production or sale of shoddy products" (生产、销售伪劣商品罪) can be further divided into ten crimes, such as the sale of shoddy products (生产、销售伪劣产品罪) and the sale of fake medicine (生产、销售假药罪). Our dataset includes twenty-two crimes that do not appear in the CJO filter of case types, likely due to censorship but also possibly due to problems with CJO's parser. The larger number of crime types in CJO than in our database reflects the fact that the CJO filter lists categories of crimes as well as specific crimes; category names likely do not appear in case decisions. In addition, CJO likely includes some crimes that did not appear in the years covered by our dataset.

113. For each case, we extracted the crime for which the defendant was convicted and counted the total number of cases involving each crime. We counted cases involving convictions for multiple crimes toward the total for each crime category involved. CJO appears to do the same in calculating the number of cases for each crime so that a case involving two crimes is counted in each crime category.

114. We read all of the available cases for crimes with fifty or fewer total cases in our database.

115. We checked whether each individual case was available on CJO by searching for the case number and parties' names or other identifying information. Although our initial comparison of the number of cases available in CJO was done using data from mid-2021, our audit of whether individual cases from our random samples remained online was done in June 2022, meaning that it should reflect any cases that were reposted between mid-2021 and mid-2022.

TABLE 6. COMPARISON OF THE NUMBER OF CASES AVAILABLE ON CJO IN JULY 2021 TO CASES IN COLUMBIA/UC DATABASE BY CRIME TYPE FOR 2015 AND 2016

Crime Name	2015 Cases in Columbia/ UC Database	2015 Cases on CJO	% Δ 2015	2016 Cases in Columbia/ UC Database	2016 Cases on CJO	% Δ 2016
Illegal business activities (非法经营罪)	4,603	1	-100	4,110	4	-100
Extortion (敲诈勒索罪)	4,152	0	-100	3,752	1	-100
Illegally producing or selling equipment used for espionage (非法生产、销售间谍专用器材罪)	60	0	-100	17	0	-100
Picking quarrels and causing trouble (寻衅滋事罪)	23,044	0	-100	22,828	2	-100
Organizing or using superstitious sects, secret societies, and cults to use superstition to undermine the implementation of the law (组织、利用会道门、邪教组织、利用迷信破坏法律实施罪)	613	0	-100	734	0	-100

Crime Name	2015 Cases in Columbia/ UC Database	2015 Cases on CJO	% Δ 2015	2016 Cases in Columbia/ UC Database	2016 Cases on CJO	% Δ 2016
Stealing or insulting a corpse (盗窃、侮辱尸体罪)	29	0	-100	34	0	-100
Stealing, damaging, or insulting a corpse, bones, or ashes (盗窃、侮辱、故意毁坏尸体、尸骨、骨灰罪)	15	0	-100	23	0	-100
Deceit through impersonation (招摇撞骗罪)	621	4	-99	539	9	-98
Impersonation of a soldier (冒充军人招摇撞骗罪)	123	4	-97	102	3	-97
Slander (诽谤罪)	12	0	-100	21	1	-95
Illegally obtaining state secrets (非法获取国家秘密罪)	48	5	-90	49	6	-88
Illegal production, sale, or transport of narcotics or smuggling of narcotics (非法生产、买卖、运输、制毒物品、走私制毒物品罪)	191	0	-100	178	23	-87

Crime Name	2015 Cases in Columbia/ UC Database	2015 Cases on CJO	% Δ 2015	2016 Cases in Columbia/ UC Database	2016 Cases on CJO	% Δ 2016
Intentional release of state secrets (故意泄露国家秘密罪)	12	0	-100	6	1	-83
Forging or alteration of state securities (伪造、变造国家有价证券罪)	14	4	-71	13	3	-77
Organizing, leading, or participation in organized crime organizations (组织、领导、参加黑社会性质组织罪)	76	15	-80	49	22	-55
Retaliation against a witness (打击报复证人罪)	10	6	-40	13	6	-54
Illegal sale or provision of test questions and answers (非法出售、提供试题、答案罪)	2	0	-100	15	8	-47
Counterfeiting registered trademarks (假冒注册商标罪)	1,063	598	-44	1,111	593	-46

We also reran our analysis in July 2022 to check for any new categories of cases deleted since July 2021. We focused on crimes for which the number of cases available in June 2022 was ten percent or more below the number available ten months earlier, suggesting a policy of removing such

cases during the course of the year.[116] Table 7 lists these crimes, the total number of cases decided in 2015 and 2016 available online in August 2021, and the percentage of those cases removed ten months later. We read random samples of fifty cases each of six of the seven crimes that showed ten or more cases on CJO as of August 2021.[117]

TABLE 7. CRIMINAL CASES DELETED BETWEEN AUGUST 2021 AND JUNE 2022

Crime	Total Cases Decided in 2015 and 2016 on CJO in August 2021	Percentage Removed as of June 2022
Retaliation against a witness (打击报复证人罪)	12	68
Fraudulent activities with financial bills (金融凭证诈骗罪)	21	19
Abducting and trafficking women or children (拐卖妇女、儿童罪)	1,107	15
Smuggling prohibited rare animals and their products (走私珍贵动物、珍贵动物制品罪)	124	14
Buying abducted women or children (收买被拐卖的妇女、儿童罪)	128	11
Illegally hunting or killing rare or endangered wild animals(非法猎捕、杀害珍贵、濒危野生动物罪)	525	10
Illegally purchasing, transporting, or selling rare or endangered wild animals or their manufactured products (非法收购、运输、出售珍贵、濒危野生动物、珍贵、濒危野生动物制品罪)	1,029	10

116. We used a ten percent threshold to compare the number of cases on CJO in June 2022 to the number available ten months earlier because we observed relatively lower percentages of deletions compared to our original analysis in 2021. We examined crimes for which at least ten cases from 2015 and 2016 were available as of 2021.

117. The seventh crime, "retaliation against a witness," was also in the first list of crimes removed. We read a random sample of this group of cases as part of our analysis of crimes listed in Table 6.

C. *Additional Steps: Provincial Variation and Random Samples*

We selected seven crimes to examine for differences in removals among provinces.[118] When nearly all cases of a particular crime are deleted, such decisions are likely made at the national level. When removals are concentrated in certain provinces, in contrast, it is likely that removal decisions are being made at the provincial level. For example, Guangdong Province has removed all eighty-four first-instance cases involving the crime of abducting and trafficking women or children, while many other provinces have only deleted a small number of such cases.[119] Conversely, Henan Province, home to the largest number of trafficking cases in our database, showed more cases on CJO than we have in our database. Another example of provincial-level removal of cases is the crime of smuggling protected rare animals and their products. Guangdong appears to have deleted two-thirds of the forty-eight cases originally made public. In contrast, all twenty cases decided in Yunnan remained online.[120]

Most deleted crimes showed no provincial variation: Only crimes related to human trafficking and the trade in wild animals showed differences across provinces. For crimes with no or very few cases remaining online, it appears likely that decisions to delete cases are being made at the national level. For crimes with some cases remaining online, there may be court-level differences in deletion practices.

We also manually audited a random sample of 2,500 criminal cases to check which cases had been deleted. We audited 500 cases from each of the five provinces with the largest decrease in the number of first-instance criminal cases online. We did this to check whether we had missed any categories of deleted cases.

D. *Caveats*

Our approach is subject to obvious caveats. Most significantly, although close reading of cases provides a general sense of common fact patterns for each crime and allows us to infer possible reasons cases have

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118. We looked at variation by province in crimes for which more than twenty cases from 2015 and 2016 combined remained online in August 2022. We include both crimes we identified in our original analysis of deletions as of August 2021 and those for which we identified deletions between 2021 and 2022.

119. Yunnan Province deleted 83% of the trafficking cases. No other province deleted more than 25% of such cases: Hunan Province had the third-highest rate of deletions, with 23% of cases deleted. Of particular note is Shandong, which had the second-largest number of trafficking cases in our database, 196, but deleted only 2 cases.

A second human trafficking-related crime, buying abducted women or children, shows a similar pattern, with Guangdong and Jiangxi deleting all cases and Yunnan deleting 90% of cases, while many other provinces had most cases still online. But the total number of such cases was small (in the single digits) in most provinces.

120. We also observed provincial-level variation in the related crimes of illegally purchasing or transporting rare or endangered wild animals and illegally hunting wild animals.

been deleted, we cannot know for sure why particular categories of cases have been removed. Qualitative work that might help shed light on rationales was not possible due to the COVID-19 pandemic. We cannot explain all removals, and we are at times left guessing at the reason a particular type of case has been deleted. Court judgments also do not necessarily reflect what occurred at trial or the reasons behind court decisions. Nevertheless, our approach of combining analysis of the number of cases publicly available over time with a close reading of cases yields strong clues about why cases are being removed and thus insight into how and why Chinese courts are managing the release of information to the public.

We also do not know who decides which cases are removed or whether such removals are done at the national, provincial, or local level. Informal conversations suggest that although local courts often request that individual cases be removed from CJO, decisions to remove entire categories of cases (or significant portions thereof) are likely made at the national level.

CJO's case counts may also not be reliable: The system often appears unstable, and there is no way of knowing if case counts accurately reflect the available data. It is possible that some of the reduction in case numbers we observe reflects efforts to eliminate duplicate cases from the CJO site and that some cases are removed to correct errors or to comply with new rules on data privacy.[121] Yet we find such reasons insufficient to explain the near-complete elimination of cases involving certain crimes. By focusing on categories of cases that have been removed, not individual case removals, we believe we are able to identify cases that are being removed due to policy determinations, not the discretionary actions of judges in individual cases.

Removing cases is not the only way CJO may shield criminal cases from observation. CJO's "filter by crime type" feature omits more than fifty crimes listed in the criminal law, including all crimes listed under the broad category of "harming state security." These include crimes ranging from subversion and secession to the crimes of illegal border crossing and obstructing the management of drugs. The fact that crimes are not listed on CJO's filter does not mean that all cases have been removed: We found that cases sometimes remained available on the CJO website even though the crime did not appear on CJO's filter by crime type.[122] This suggests that CJO prevents searches of some categories of cases rather than remove

121. SPC rules state that courts should redact all but family names from court decisions, see SPC Internet Publication Regulations, supra note 27, arts. 8–9, but courts posting cases often failed to do so, particularly in the initial years after the CJO website's launch.

122. We located four crimes for which we had more than ten cases in one year in our dataset but that do not appear on the CJO filter by type of crime. We initially believed that this indicated that these cases had been removed. Our audit of random samples of fifty cases from each of these crimes revealed that most of these cases remained online, with only a few having been removed for each of the four crimes.

cases, may lack the institutional capacity to remove all sensitive cases, or may rely on imperfect algorithms to classify cases.[123]

IV. DISAPPEARED CASES

Close reading of deleted cases allows us to infer the reasons that categories of cases have been removed.[124] This exercise is speculative, as we were not able to identify who ordered the takedown of specific cases, much less ask them why. But identifying what was deleted offers a solid empirical starting point to reflect on the politics of administrative censorship. Two broad concerns of the courts emerge from our reading of more than 1,200 cases. The first is discomfort with criticism of the courts or the Chinese legal system, both domestically and internationally. Deleted cases are sometimes politically sensitive, although they also sometimes reflect concern about criticism of cases that appear unlikely to touch on core areas of potential political sensitivity. The second is concern with the negative portrayal of social phenomena or other political–legal institutions. In these cases, courts appear particularly concerned with the potential impact of case publication on institutional reputations and relationships.

The two categories of deleted cases are broad, and some deleted cases are in both categories. Other motivations, most notably concerns about litigants' privacy, may also help to explain case deletions, although we believe privacy concerns offer less explanatory power for the removal of entire categories of crimes from CJO than for individual case deletions. Reading disappeared cases surfaces previously overlooked sensitivities and anxieties for the courts as well as their sometimes-idiosyncratic approach to deleting cases.

A. *International and Domestic Scrutiny of the Legal System*

Most case removal accounts that have appeared outside of China have focused on cases that touch on topics for which the Chinese legal system has been criticized internationally. Our research confirms that some categories of clearly sensitive cases are being removed. The crime of "picking quarrels and causing trouble," for example, is at times used to target dissidents, a fact that has been widely covered by international media and human rights organizations.[125] Other cases in this category

123. In informal conversations, we have repeatedly heard that the SPC has a database of all cases, including those not available publicly.

124. In the discussion that follows, all of the cases we discuss have been deleted, unless specifically identified in our discussion as remaining online.

125. See Helen Davidson, China Should Scrap 'Picking Quarrels' Crime, Says Leading Lawyer, The Guardian (Feb. 28, 2023), https://www.theguardian.com/world/2023/feb/28/china-should-scrap-picking-quarrels-says-leading-lawyer [https://perma.cc/AU33-W575] (describing "picking quarrels and provoking trouble" as a broad crime applied widely against "dissidents, media workers, lawyers and activists"); Edward Wong, China Uses

target those organizing protests or petitioning.[126] These cases were virtually entirely deleted from CJO: While our database includes just over 45,000 cases involving this crime from 2015 and 2016, no cases from 2015 or 2016 remained online as of September 2023.[127] Another category of deleted cases involves the crime of "organizing or using superstitious sects, secret societies, and cults to undermine the implementation of the law."[128] Falun Gong adherents, as well as members of other religious groups that the Chinese state has long targeted, notably the millennial Church of Almighty God (also known as Eastern Lightning), are often prosecuted under this law.[129] Most of the defendants in these cases had previously been sanctioned and often jailed, suggesting the persistence of belief in the face of state repression.[130] All such cases have been deleted. What is

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'Picking Quarrels' Charge to Cast a Wider Net Online, N.Y. Times (July 26, 2015), https://www.nytimes.com/2015/07/27/world/asia/china-uses-picking-quarrels-charge-to-cast-a-wider-net-online.html (on file with the *Columbia Law Review*) (describing the increasing use of "picking quarrels and provoking trouble" to crack down on internet speech); China: Events of 2021, Hum. Rts. Watch, https://www.hrw.org/world-report/2022/country-chapters/china-and-tibet [https://perma.cc/8RXA-WD8Y] (last visited Oct. 4, 2023) (describing several incidents in which "picking quarrels" was used to charge and detain activists).

126. For examples from our random sample of fifty cases involving picking quarrels and causing trouble, see Beijing Xicheng Dist. People's Proc. v. Sun (北京市西城区人民检察院诉孙某), Beijing Xicheng Dist. People's Ct. (北京市西城区人民法院), (2015)西刑初字第615 号, Oct. 15, 2015 (on file with the *Columbia Law Review*) (concerning defendant petitioner who sought to attract attention to grievances by attempting suicide in public); Nanchang Xinjian Dist. People's Proc. v. Cheng (南昌市新建区人民检察院诉程某某、徐某某), Nanchang Xinjian Dist. People's Ct. (南昌市新建区人民法院), (2015)新刑初字第 163 号, Jan. 4, 2016 (on file with the *Columbia Law Review*) (concerning violent protest by villagers against new detention center). "Petitioning" in China refers to the long-established system for handling citizens' complaints through letters and visits to offices, which exist at most Party-State institutions.

127. At the time we originally examined missing cases (in the summer of 2021), CJO listed two cases involving picking quarrels and causing trouble from 2015 or 2016. As of September 2023, CJO showed no such cases from 2015 or 2016 remaining online, although eleven first-instance cases mentioning the crime from 2021 to 2023 were available on CJO. Xunxin Zishi Zui (寻衅滋事罪) [Picking Quarrels and Provoking Trouble], CJO, https://perma.cc/K83X-T2YT (as updated Sept. 30, 2023).

128. See Zhang Qianfan & Zhu Yingping, Religious Freedom and Its Legal Restrictions in China, 2011 BYU L. Rev. 783, 797–99 (describing the evolution of China's restrictions on "cults").

129. See Carl Hollan, A Broken System: Failures of the Religious Regulatory System in the People's Republic of China, 2014 BYU L. Rev. 733, 749, 765–66 (describing the history of persecution against the Church of Almighty God and Falun Gong).

130. For examples from our random sample, see Jiangxi Xiushui Cnty. People's Proc. v. Chen (江西省修水县人民检察院诉陈某某), Jiangxi Xiushui Cnty. People's Ct. (江西省修水县人民法院), (2015)修刑初字第 28 号, Jan. 28, 2015 (on file with the *Columbia Law Review*) (convicting defendants, who had previously served one year of reeducation through labor for participation in a cult, for participating in the Bloody Holy Spirit group); Liuzhou Yufeng Dist. People's Proc. v. Su (广西壮族自治区柳州市鱼峰区人民检察院), Liuzhou Yufeng Dist. People's Ct. (广西壮族自治区柳州市鱼峰区人民法院), (2016) 桂 0203 刑初 224 号, May 10, 2016 (on file with the *Columbia Law Review*) (convicting defendant, who had

most striking in these cases is that they were posted in the first place, given the longstanding international criticism of China for its treatment of the Falun Gong and other religious groups.

Concern with international audiences also likely explains the deletion of cases involving the crime of "counterfeiting registered trademarks."[131] These cases largely involve the counterfeiting of prominent global brands.[132] This may explain why "counterfeiting registered trademarks" is the only category of intellectual-property-related crime that our data show declining by thirty percent or more on the CJO site. Yet unlike cases involving picking quarrels and causing trouble or superstitious sects, a significant number of cases involving the counterfeiting of trademarks remain online: Our data show forty-four percent of 2015 cases being removed and forty-six percent of 2016 cases being deleted (Table 6). A close reading reveals that deleted cases involve brands ranging from Nike[133] to Michael Kors[134] to Head & Shoulders.[135] Although most

previously served three years of reeducation through labor for Falun Gong activities, for violating the criminal law); Xinjiang Kuytun City People's Proc. v. Bu (新疆维吾尔自治区奎屯市人民检察院诉卜某某、李某某、买某某), Xinjiang Kuytun City People's Ct. (新疆维吾尔自治区奎屯市人民法院), (2016)新 4003 刑初 33 号, May 31, 2016 (on file with the *Columbia Law Review*) (convicting defendants who had previously been convicted for being active members of the Falun Gong).

131. Emily Kehoe, Note, Combating the Counterfeiting Woes of the Wine Seller in China, 53 IDEA 257, 275–76, 281 (2013) ("[T]he [United States Trade Representative] once again criticized China for failing to properly enforce and protect foreign [intellectual property rights].").

132. For examples from our random sample, see Guangdong Boluo Cnty. People's Proc. v. Wang (博罗县人民检察院诉汪某甲、官某), Guangdong Buoluo Cnty. People's Ct. (广东省博罗县人民法院), (2016)粤 1322 刑初 16 号, Jan. 19, 2016 (on file with the *Columbia Law Review*) (Calvin Klein T-shirts); Guangzhou Baiyun Dist. People's Proc. v. Huang (广州市白云区人民检察院诉黄某某、何某甲、何某乙、曾某甲、钟某、刘某), Guangzhou Baiyun Dist. People's Ct. (广东省广州市白云区人民法院), (2016)粤 0111 刑初 1141 号, June 28, 2016 (on file with the *Columbia Law Review*) (Escada, Lancôme, Bulgari, Lacoste, and Armani perfume); Guangzhou Liwan Dist. People's Proc. v. Wu (广州市荔湾区人民检察院诉吴某、郑某), Guangzhou Liwan Dist. People's Ct. (广东省广州市荔湾区人民法院), (2016)粤 0103 刑初 134 号, Mar. 10, 2016 (on file with the *Columbia Law Review*) (Samsung and Huawei batteries); Guangzhou Panyu Dist. People's Proc. v. Song (广州市番禺区人民检察院诉宋某、陈某、赖某、袁某、陈某), Guangzhou Panyu Dist. People's Ct. (广东省广州市番禺区人民法院), (2015)穗番法知刑初字第 6 号, Feb. 11, 2015 (on file with the *Columbia Law Review*) (Michael Kors handbags); Yangjiang Jiangcheng Dist. People's Proc. v. Liang (阳江市江城区人民检察院诉梁某华), Yangjiang Jiangcheng Dist. People's Ct. (阳江市江城区人民法院), (2015)阳城法刑初字第 542 号, Aug. 26, 2015 (on file with the *Columbia Law Review*) (Burberry pants).

133. Putian Licheng Dist. People's Proc. v. Huang (福建省莆田市荔城区人民检察院诉黄某某、郑某甲、郑某乙), Putian Licheng Dist. People's Ct. (福建省莆田市荔城区人民法院), (2016)闽 0304 刑初 152 号, May 23, 2016 (on file with the *Columbia Law Review*).

134. Guangzhou Panyu Dist. People's Proc. v. Song (广州市番禺区人民检察院诉宋某、陈某、赖某、袁某、陈某), Guangzhou Panyu Dist. People's Ct. (广东省广州市番禺区人民法院), (2015)穗番法知刑初字第 6 号, Feb. 11, 2015 (on file with the *Columbia Law Review*).

135. Foshan Nanhai Dist. People's Proc. v. Xu (佛山市南海区人民检察院诉徐某、黄某), Foshan Nanhai Dist. People's Ct. (广东省佛山市南海区人民法院), (2016)粤 0605 刑初 507 号, Mar. 7, 2016 (on file with the *Columbia Law Review*).

deletions involve international brands, cases involving Moutai,[136] the leading Chinese spirit, were also deleted. Yet other cases involving prominent international brands remain online,[137] and it is unclear why some are deleted while others remain online.[138] It appears likely that individual courts are independently deciding to remove these cases.[139]

Other deleted cases seem to reflect concern with domestic criticism, including by scholars and legal professionals. The crime of "illegal business activities" has long been criticized within China for being a "pocket crime," a crime so ill-defined that almost any conduct can fit within it.[140] Although there have been previous reports of the crime being used to target illegal publications, the cases we reviewed mostly involved mundane offenses such as the illegal sale of cigarettes, agricultural

136. Beijing Daxing Dist. People's Proc. v. Ruan (北京市大兴区人民检察院诉阮某某), Beijing Daxing Dist. People's Ct. (北京市大兴区人民法院), (2016)京 0115 刑初 398 号, Apr. 29, 2016 (on file with the *Columbia Law Review*).

137. For examples of cases involving prominent brands that remain online, see Guangzhou Baiyun Dist. People's Proc. v. Chen (广州市白云区人民检察院诉陈某甲、陈某乙), Guangzhou Baiyun Dist. People's Ct. (广东省广州市白云区人民法院), (2016)粤 0111 刑初 2874 号, Nov. 16, 2016 (on file with the *Columbia Law Review*) (Head & Shoulders, Rejoice, Clear, Pantene, and Lux); Jiangxi Luxi Cnty. People's Proc. v. Zhang (芦溪县人民检察院诉张某), Jiangxi Luxi Cnty. People's Ct. (江西省芦溪县人民法院), (2016)赣 0323 刑初 96 号, Dec. 12, 2016 (on file with *the Columbia Law Review*) (Apple iPhone); Zhejiang Ruian City People's Proc. v. Zhou (浙江省瑞安市人民检察院诉周某), Zhejiang Ruian City People's Ct. (浙江省瑞安市人民法院),(2015)温瑞知刑初字第 2 号, June 12, 2015 (on file with the *Columbia Law Review*) (Volkswagen).

138. We also saw no difference between cases involving prominent U.S. brands and those from Europe or other jurisdictions. Our audit of a random sample of forty-nine counterfeit trademark cases showed that twenty-one of them had been removed. Provincial-level analysis likewise suggests little difference in the frequency with which these cases are deleted.

139. We examined the number of cases on CJO and our database for each court in Guangdong Province and found widespread differences in whether courts had deleted all or only some counterfeit trademark cases. This finding suggests that decisions on deletions may be made at the court level, at least for some types of crimes.

140. See, e.g., Chen Xingliang (陈兴良), Xingfa de Mingquexing Wenti: Yi "Xingfa" Di 225 Tiao Di 4 Xiang Weili de Fenxi (刑法的明确性问题:以《刑法》第 225 条第 4 项为例的分析) [On Some Problems of Clarity Within Criminal Law: Using Clause 4 of Article 225 of the Criminal Law as an Example for Analysis], Zhongguo Faxue (中国法学) [China Legal Sci.], no. 4, 2011, at 114, 120–21 (characterizing the crime of "illegal business activities" as a "pocket crime" due to its indefiniteness and catch-all method); Tang Jiyao & Wang Yanli (唐稷尧、王燕莉), Feifa Jingying Zui de Jiazhi Quxiang yu Zhiyi—Dui "Xingfa" Di Erbai'ershiwu Tiao Di San Xiang de Fenxi (非法经营罪的价值取向与质疑——对《刑法》第二百二十五条第三项的分析) [Value Trends and Doubts Regarding the Crime of Illegal Business Activities: Analysis of Clause 3 of Article 225 of the Criminal Law], 29 Sichuan Shifan Daxue Xuebao (Shehui Kexue Ban) (四川师范大学学报(社会科学版) [J. Sichuan Normal Univ. (Soc. Sci. Edition)], no. 1, 2002, at 59, 59–67 (on file with the *Columbia Law Review*) (discussing the perils of indefinite criminal laws); Zhang Mingkai (张明楷), Xingfa Xiuzhengan An Shiyi dui Koudaizui de Xiansuo ji qi Yiyi (《刑法修正案(十一)》对口袋罪的限缩及其意义) [Restrictions on Pocket Crimes by "Criminal Law Amendment (11)" and Its Significance], 36 Dangdai Faxue (当代法学) [Contemp. L. Rev.], no. 4, 2022, at 3, 3–18 (2022) (noting Chinese scholars' long-standing criticism of pocket crimes).

products, or lottery tickets.[141] It is likely that the perceived domestic sensitivity to the crime (including criticism of the police for excessive use of the crime) led the courts to remove more than 8,000 of these cases from 2015 and 2016 that had previously been published online.[142]

Some cases appear to have been deleted out of concern for both domestic and international criticism. Some scholars within China have noted the trend of courts using the crime of extortion to punish petitioners and protestors;[143] the issue has also attracted international attention.[144] Nearly 8,000 cases were deleted from the CJO database, with

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141. For examples from our random sample, see Guangzhou Baiyun Dist. People's Proc. v. Zhang (广州市白云区人民检察院诉张某某), Guangzhou Baiyun Dist. People's Ct. (广州市白云区人民法院), (2016)粤 0111 刑初 1689 号, Oct. 28, 2016 (on file with the *Columbia Law Review*) (cigarettes); Huaian Hongze Dist. People's Proc. v. Wan (淮安市洪泽区人民检察院诉万某某), Huaian Hongze Dist. People's Ct. (淮安市洪泽区人民法院), (2016)苏 0829 刑初 281 号, Dec. 22, 2016 (on file with the *Columbia Law Review*) (rice); Zhejiang Cixi City People's Proc. v. Shen (浙江省慈溪市人民检察院诉沈某、胡某甲), Zhejiang Cixi City People's Ct. (浙江省慈溪市人民法院), (2015)甬慈刑初字第 562 号, Apr. 1, 2015 (on file with the *Columbia Law Review*) (lottery tickets).

142. Our audit confirmed that illegal business cases are being removed: All fifty cases in our random sample were removed from CJO.

143. See Cao Bo & Xiao Zhonghua (曹 波、肖中华), Yi Qiaozha Lesuo Zui Guizhi Xinfang Xingwei de Jiaoyixue Pipan (以敲诈勒索罪规制信访行为的教义学批判) [Doctrinal Criticism on Regulating Petitions With the Crime of Extortion], Falü Shiyong (法律适用) [J.L. Application], no. 9, 2016, at 43, 43–51 (criticizing the application of antiextortion laws to petitioners); Yang Lanchen (杨兰臣), Lun Xinfang Guocheng Zhong Zhengfu Kefou Chengwei Qiaozha Lesuo Zui de Beihairen (论信访过程中政府可否成为敲诈勒索罪的被害人) [On Whether the Government Can Become a Victim of Extortion in the Petitioning Process], 29 Shandong Jingcha Xueyuan Xuebao (山东警察学院学报) [J. Shandong Police Coll.], no. 3, 2017, at 25, 25–31 (discussing how courts limit the people's right to petition through a nebulous definition of extortion); Zhu Jianhua & Li Dingtao (朱建华、李丁涛), Fei Zhengchang Shangfang Xingwei Xingfa Guizhi de Fansi yu Xiansuo—yi 2018–2019 Nianjian de Sanbai'ershi fen Caipan Wenshu wei Yangben (非正常上访行为刑法规制的反思与限缩——以 2018–2019 年间的 320 份裁判文书为样本) [Rethinking and Limiting Criminal Law Regulation of Abnormal Petitions—Taking 320 Judgment Documents From 2018 to 2019 as a Sample], 50 Neimenggu Shifan Daxue Xuebao (Zhexue Shehui Kexue Ban) (内蒙古师范大学学报 (哲学社会科学版)) [J. Inner Mong. Normal U. (Phil. & Soc. Sci. Edition)], no. 6, 2021, at 46, 46–58 (discussing how the government illegitimately and unlawfully regulates protests through the crime of extortion).

144. See Network of Chinese Hum. Rts. Defs. & Coal. of Chinese NGOs, Civil Society Report Submitted to the Committee Against Torture paras. 73–74 (2015), https://www.nchrd.org/wp-content/uploads/2015/11/CHRD-Network-and-NGO-Coalition-Civil-Society-Report-Submitted-to-The-Committee-against-Torture_PDF-.pdf [https://perma.cc/PK75-DBXR] (noting prison sentences up to ten and a half years for charges of "extorting the government" and up to eighteen months for "creating a disturbance"); Yuqing Feng & Xin He, From Law to Politics: Petitioners' Framing of Disputes in Chinese Courts, 80 China J. 130, 146–47 (2018) (noting the "profound chilling effect on petitioners" that stems from fear of retaliatory criminal sanctions); Phosphate Fertilizer Plant Pollution in Liuchong Village, Hubei Province, China, Env't Just. Atlas, https://ejatlas.org/conflict/phosphate-fertilizer-plant-pollution-in-liuchong-village-hubei-province [https://perma.cc/5W8Z-A858] (last updated Aug. 20, 2015) (noting environmental protests against a phosphate mine and fertilizer factory and the subsequent arrests of two protestors for extortion, which "attracted wide public attention including lawyers, environmental activists, NGOs and journalists").

just one case remaining. A review of a random sample of cases reveals that some cases do involve collective action. One case, for example, involved petitioning following a land taking.[145] A second case involved three defendants who were convicted of extortion for organizing a protest complaining about the lack of halal food at a company canteen.[146] But the number of collective action cases was relatively small, with fewer than five in our random sample of fifty cases in this category. Other claims were more routine, including prosecutions for faking traffic accidents to extort money from drivers,[147] extorting money from those accused of a crime,[148] and threatening to reveal details of sexual relationships.[149]

Extortion cases are one example of a phenomenon that we term "sensitivity contagion": the removal of many routine cases because they fall within the same provision of the criminal law as a small number of sensitive cases. Another example is the crime of picking quarrels and causing trouble, discussed above.[150] Although the crime is sometimes used to target political dissidents or collective protests,[151] our random sample of fifty cases included only three cases that involved petitioners or collective protests against the state.[152] A small number of other cases involved group

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145. Henan Gushi Cnty. People's Proc. v. Wang (河南省固始县人民检察院诉王某某、柯某某、冯某甲、魏某某、易某某), Henan Gushi Cnty. People's Ct. (固始县人民法院), (2015)固刑初字第 215 号, Aug. 20, 2015 (on file with the *Columbia Law Review*).

146. The protestors were upset after being denied employment because the company said that the company canteen could not provide halal food. See Beijing Mentougou Dist. People's Proc. v. Yang (北京市门头沟区人民检察院诉杨某、赵某、马某、余某), Beijing Mentougou Dist. People's Ct. (北京市门头沟区人民法院), (2015)门刑初字第 93 号, June 1, 2015 (on file with the *Columbia Law Review*). The case may also have been deleted because it included the words "picking quarrels and causing trouble," as police initially arrested the protestors for that crime.

147. See, e.g., Hebei Julu Cnty. People's Proc. v. Li (河北省巨鹿县人民检察院诉李某甲), Hebei Julu Cnty. People's Ct. (河北省巨鹿县人民法院), (2016)冀 0529 刑初 45 号, June 16, 2016 (on file with the *Columbia Law Review*) (involving defendant's coconspirator who claimed to have been hit by a passing vehicle).

148. See, e.g., Zhejiang Yongkang City People's Proc. v. Xiong (浙江省永康市人民检察院诉熊某、袁某、颜某、文某某、张某某), Zhejiang Yongkang City People's Ct. (浙江省永康市人民法院), (2016)浙 0784 刑初 1394 号, Nov. 18, 2016 (on file with the *Columbia Law Review*) (involving a defendant who kidnapped a heroin dealer and threatened to report him if he did not pay the defendant).

149. See, e.g., Jiangsu Feng Cnty. People's Proc. v. Shi (江苏省丰县人民检察院诉史某、丁某、侯某), Jiangsu Feng Cnty. People's Ct. (江苏省丰县人民法院), (2015)丰刑初字第 0130 号, Apr. 29, 2015 (on file with the *Columbia Law Review*).

150. See supra note 125 and accompanying text.

151. Our random sample of fifty cases in our dataset revealed no cases that remained online.

152. Anhui Taihe Cnty. People's Proc. v. Tian (太和县人民检察院诉田某), Anhui Taihe Cnty. People's Ct. (安徽省太和县人民法院), (2015)太刑初字第 00393 号, Mar. 17, 2016 (on file with the *Columbia Law Review*); Beijing Xicheng Dist. People's Proc. v. Sun (北京市西城区人民检察院诉孙某), Beijing Xicheng Dist. People's Ct. (北京市西城区人民法院), (2015)西刑初字第 615 号, Oct. 15, 2015 (on file with the *Columbia Law Review*); Nanchang Xinjian Dist. People's Proc. v. Cheng (南昌市新建区人民检察院诉程某某、徐某某), Nanchang

fights and thus may have been sensitive simply because of the number of individuals involved.[153] Most decisions were routine cases of fights,[154] assaults, destroying property,[155] or gang activity,[156] with no obvious reason for their removal.[157] It appears that the courts have determined that it is easier to delete all cases that mention the crime than to determine which picking quarrels cases are actually sensitive—a fact confirmed by the deletion of cases involving other crimes that include mention of the words "picking quarrels and causing trouble," often in summarizing a defendant's prior criminal history.[158]

Concern with the image of the legal system and the courts is also evident in the deletion of cases relating to the crime of "retaliation against a witness." The SPC has worked to encourage greater use of witnesses in trials, particularly since the 2012 revision of the Criminal Procedure Law. Anyone reading the (now-removed) cases relating to retaliation against a

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Xinjian Dist. People's Ct. (南昌市新建区人民法院), (2015)新刑初字第 163 号, Jan. 4, 2016 (on file with the *Columbia Law Review*).

153. See, e.g., Hubei Tongshan Cnty. People's Proc. v. Chen (通山县人民检察院诉陈某), Hubei Tongshan Cnty. People's Ct. (湖北省通山县人民法院), (2016)鄂 1224 刑初字 10 号, Mar. 4, 2016 (on file with the *Columbia Law Review*); Shanghai Qingpu Dist. People's Proc. v. Ma (上海市青浦区人民检察院诉马某某、薛某、朱某某、许某、方某某、邹某、邹某某、段某某、刘某), Shanghai Qingpu Dist. People's Ct. (上海市青浦区人民法院), (2015)青刑初字第 1029 号, Aug. 24, 2015 (on file with the *Columbia Law Review*).

154. See, e.g., Shandong Rushan City People's Proc. v. Zhong (山东省乳山市人民检察院诉钟某、姜某), Shandong Rushan City People's Ct. (山东省乳山市人民法院), (2016)鲁 1083 刑初 74 号, Apr. 22, 2016 (on file with the *Columbia Law Review*) (concerning a physical fight with a knife following a dispute in a karaoke room); Yunnan Luquan Yi & Miao Autonomous Cnty. People's Proc. v. Tao (禄劝彝族苗族自治县人民检察院诉陶某某), Yunnan Luquan Yi & Miao Autonomous Cnty. People's Ct. (云南省禄劝彝族苗族自治县人民法院), (2016)云 0128 刑初 273 号, Dec. 8, 2016 (on file with the *Columbia Law Review*) (concerning a physical fight following a verbal dispute with a waiter).

155. See, e.g., Guangdong Yangshan Cnty. People's Proc. v. Zhong (阳山县人民检察院诉钟某、韦某、梁某一、黄某一), Guangdong Yangshan Cnty. People's Ct. (广东省阳山县人民法院), (2015)清阳法刑初字第 155 号, Nov. 27, 2015 (on file with the *Columbia Law Review*) (involving a defendant who "vandalized tables, televisions, barbecue stoves, and rain shelters" in a restaurant with iron pipes); Luliang Lishi Dist. People's Proc. v. Tan (山西省吕梁市离石区人民检察院诉谭某), Luliang Lishi Dist. People's Ct. (山西省吕梁市离石区人民法院), (2016)晋 1102 刑初 290 号, Dec. 15, 2016 (on file with the *Columbia Law Review*) (involving a defendant who "caused damage to various items . . . including the television and wine glasses" in a karaoke room).

156. See, e.g., Hubei Hanjiang City People's Proc. v. Ma (湖北省汉川市人民检察院诉马某甲), Hubei Hanjiang City People's Ct. (湖北省汉川市人民法院), (2016)鄂 0984 刑初 269 号, Aug. 5, 2016 (on file with the *Columbia Law Review*); Jiangsu Hongze Cnty. People's Proc. v. Cao (洪泽县人民检察院诉曹某甲、曹某乙、黄某甲、解某、封某、朱某甲), Jiangsu Hongze Cnty. People's Ct. (江苏省洪泽县人民法院), (2015)泽刑初字第 35 号, May 20, 2015 (on file with the *Columbia Law Review*).

157. It is likely that the most sensitive "picking quarrels and causing trouble" cases—those targeting political dissidents—are never released publicly. Our findings are confirmed by a topic model of 105,000 "picking quarrels and causing trouble" cases, which shows that the vast majority of such cases previously made public were routine.

158. See infra notes 209–211 and accompanying text (discussing the results from our audit of a random sample of criminal cases).

witness can quickly see why many remain reluctant to serve as witnesses. The cases describe in graphic detail a range of abuse against witnesses: stabbings,[159] being covered in chili pepper and forced to drink urine,[160] and having one's home gate rammed with a car.[161]

B. *Social Ills and Institutional Images*

Other deleted cases reflect concern with the portrayal of social ills. There is no evidence of domestic or foreign criticism of the crimes of "stealing and insulting a corpse" or "stealing, insulting or causing intentional injury to a corpse, remains, or ashes." Yet these cases have almost entirely disappeared from CJO,[162] suggesting concern about cases revealing details of social ills that the Party-State has sought to eradicate. Many of the cases exposed the market for freshly buried women's bodies due to the continued traditional practices of ensuring that a deceased relative has a spouse in the underworld by burying the deceased with a spouse.[163] Other cases involved feuds about the placement of graves

159. See Fujian Yongtai Cnty. People's Proc. v. Chen (福建省永泰县人民检察院诉陈某某), Fujian Yongtai Cnty. People's Ct. (福建省永泰县人民法院), (2015)樟刑初字第 81 号, May 27, 2015 (on file with the *Columbia Law Review*).

160. See Zhangjiajie Yongding Dist. People's Proc. v. Wu (湖南省张家界市永定区人民检察院诉吴某、孟某某), Zhangjiajie Yongding Dist. People's Ct. (湖南省张家界市永定区人民法院), (2016)湘 0802 刑初 273 号, June 26, 2016 (on file with the *Columbia Law Review*).

161. See Guangdong Lianjiang City People's Proc. v. Chen (广东省廉江市人民检察院诉陈某某), Guangdong Lianjiang City People's Ct. (广东省廉江市人民法院), (2016)粤 0881 刑初 444 号, Oct. 13, 2016 (on file with the *Columbia Law Review*). Not all such cases were removed, but there appears to be little to distinguish deleted cases from those that remain online. Virtually all of these cases involve violence against witnesses. Nine of the twenty-two cases remained online as of June 2022. Some of the deleted cases also included mention of the crime of "picking quarrels and causing trouble," perhaps suggesting another reason the cases were deleted.

162. Three of the forty-five cases involving "theft or insulting a corpse" remained online at the time we conducted our audit in 2022. As of September 2023, CJO showed eighteen cases online. Seventeen of these were notices regarding cases not being published; the one other case was misclassified. See Daoqie, Wuru Shiti Zui (盗窃、侮辱尸体罪) [Theft or Insulting a Corpse], CJO, https://perma.cc/JZD5-ENE3 (as updated Sept. 30, 2023). In all three cases of the 2022 audit that then remained online, the crime was not the primary crime charged. In two of the cases that remained online, the defendant was charged with murder as well as theft or insulting a corpse and was thus sentenced to death. All thirty-seven cases involving "stealing, insulting, or causing intentional injury to a corpse, remains, or ashes" that are in our database were deleted from CJO.

163. See, e.g., Shaanxi Zhidan Cnty. People's Proc. v. Wei (志丹县人民检察院诉尉某某甲、曹某某、刘某某甲、刘某某乙、刘某某丙), Shaanxi Zhidan Cnty. People's Ct. (陕西省志丹县人民法院), (2015)志刑初字第 00011 号, May 21, 2015 (on file with the *Columbia Law Review*); Shandong Juye Cnty. People's Proc. v. Zhai (山东省巨野县人民检察院诉翟某某、张某某、白某某、江某某、董某某、石某某、王某某), Shandong Juye Cnty. People's Ct. (山东省巨野县人民法院), (2015)巨刑初字第 54 号, Apr. 15, 2015 (on file with the *Columbia Law Review*); Shandong Juye Cnty. People's Proc. v. Wang (山东省巨野县人民检察院诉王某某、李某某、刘某某), Shandong Juye Cnty. People's Ct. (山东省巨野县人民法院), (2015)巨刑初字第 33 号, Apr. 9, 2015 (on file with the *Columbia Law Review*). For a study of the market for deceased women's bodies, see generally T. Wing Lo, Ghost Brides and Crime

causing bad luck.[164] Two deleted cases involved the purchase of a substitute corpse in an effort to avoid a government requirement for cremation.[165] These cases are mixed in with cases in which the decedent died at the defendants' place of business and the defendants sought to dispose of the body to cover up other criminal conduct, usually prostitution or drug use.[166]

Yet these cases may also be sensitive for an additional reason: Some decisions suggest that the crime of "harming a corpse" is being used to impose light punishment in cases that should be murder cases. The courts may be worried about public criticism for allowing defendants to escape serious punishment. One case in our sample involved a defendant sentenced for the killing of a fellow migrant worker.[167] The court found that the defendant had a "non-organic sleep disorder" that caused him to become unconscious at the time he committed the killing.[168] According to the court, when he awoke and realized what he had done, he decided to chop up the body and dispose of it in a river.[169] Defendant Wang was convicted of insulting a corpse, not murder, and given only three years in prison.[170] The decision noted that the defendant was also ordered to pay

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Networks in Rural China, 17 Asian J. Criminology 371 (2022) (discussing the history and current practice of ghost marriages and analyzing two widely reported cases to illustrate the processes involved).

164. Dazhou Dachuan Dist. People's Proc. v. Feng (达州市达川区人民检察院诉冯某甲), Dazhou Dachuan Dist. People's Ct. (四川省达州市达川区人民法院), (2015)达达刑初字第 82 号, June 12, 2015 (on file with the *Columbia Law Review*); Hunan Taojiang Cnty. People's Proc. v. Wu (桃江县人民检察院诉吴某某), Hunan Taojiang Cnty. People's Ct. (湖南省桃江县人民法院), (2016)湘 0922 刑初 290 号, Aug. 25, 2016 (on file with the *Columbia Law Review*).

165. Guangdong Lufeng City People's Proc. v. Lin (陆丰市人民检察院诉林某某), Guangdong Lufeng City People's Ct. (广东省陆丰市人民法院), (2015)汕陆法刑初字第 67 号, Apr. 7, 2015 (on file with the *Columbia Law Review*); Jilin Dehui City People's Proc. v. Wang (吉林省德惠市人民检察院诉王某甲), Jilin Dehui City People's Ct. (吉林省德惠市人民法院),(2016)吉 0183 刑初 10 号, Mar. 22, 2016 (on file with the *Columbia Law Review*).

166. Bengbu Yuhui Dist. People's Proc. v. Zhang (蚌埠市禹会区人民检察院诉张某、杨某), Bengbu Yuhui Dist. People's Ct. (安徽省蚌埠市禹会区人民法院), (2016)皖 0304 刑初 58 号, May 26, 2016 (on file with the *Columbia Law Review*) (prostitution); Shantou Chaonan Dist. People's Proc. v. Chen (汕头市潮南区人民检察院诉陈某某), Shantou Chaonan Dist. People's Ct. (汕头市潮南区人民法院), (2014)汕南法刑初字第 420 号, May 19, 2015 (on file with the *Columbia Law Review*) (drug overdose). Another case involved protests in which the protesters used a relative's body to protest what they believed to be an inadequate police investigation into the relative's death by leaving the body outside a government building. Gansu Tanchang Cnty. People's Proc. v. Li (宕昌县人民检察院诉李某某、邓某某), Gansu Tanchang Cnty. People's Ct. (甘肃省宕昌县人民法院), (2015)宕刑初字第 7 号, Feb. 4, 2015 (on file with the *Columbia Law Review*).

167. Zhejiang Haining City People's Proc. v. Wang (浙江省海宁市人民检察院诉王某某), Zhejiang Haining City People's Ct. (浙江省海宁市人民法院), (2015)嘉海刑初字第 1315 号, May 30, 2016 (on file with the *Columbia Law Review*).

168. Id.

169. Id.

170. Id.

504,866 yuan to the victim's family,[171] strongly suggesting that the court had managed the case so that payment of compensation was made in exchange for leniency.[172]

A subset of cases involving social ills may also be deleted due to concerns that publishing cases online may encourage copycat crimes. Chinese academics and judges have expressed concerns that posting cases online could reveal "criminal techniques."[173] Cases involving "leading or participating in a black society organization" are generally cases targeting organized criminal activity including prostitution,[174] violence,[175] and gambling.[176]

Other deleted cases suggest courts are concerned about portraying particular state institutions in a negative light and thus perhaps damaging courts' relationships with such institutions. Virtually all of the more than

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171. Id.

172. For a discussion of the practice of exchanging leniency for payments to victims and their families, see Benjamin L. Liebman, Leniency in Chinese Criminal Law? Everyday Justice in Henan, 33 Berkeley J. Int'l L. 153, 180–81 (2015).

173. He Xiaorong, Liu Shude & Yang Jianwen (贺小荣、刘树德、杨建文), "Guanyu Renming Fayuan zai Hulianwang Gongbu Caipan Wenshu de Guiding" de Lijie yu Shiyong (关于人民法院在互联网公布裁判文书的规定》的理解与适用) [Understanding and Application of the "Regulations on the Issuance of Judicial Documents on the Internet"], Renming Sifa (人民司法) [People's Judicature], no. 1, 2014, at 23, 28 (calling for courts to delete information from cases that might provide details of "criminal techniques"); Yuan Jinfan & Li Xiang (袁锦凡、李 响) Xingshi Caipan Wenshu Jingzhi Shangwang Wenti Yanjiu (刑事裁判文书禁止上网问题研究) [A Study on Prohibitions on Placing Criminal Judgments Online], Xinan Zhengfa Daxue Xuebao (西南政法大学学报) [J. Sw. U. Pol. Sci. & L.], no. 3, 2021, at 100, 100–12 (explaining that revealing special criminal methods or investigative techniques in judgments would undermine judicial order); Caipan Wenshu Wangshang Gongkai Guanli Banfa (裁判文书网上公开管理办法) [Measures for Administering the Online Disclosure of Judgment Documents], Qingliu Xian Renmin Fayuan (清流县人民法院) [People's Ct. of Qingliu Cnty.] (Aug. 19, 2014), http://www.qlfy.com/index.php?m=content&c=index&a=show&catid=105&id=658 [https://perma.cc/3D3Z-M73V] (stating that judgments may not be published on the internet when they would reveal unique or novel crime methods or investigative techniques).

174. E.g., Guangdong Jiangmen City People's Proc. v. Liang (广东省江门市人民检察院诉梁某甲), Guangdong Jiangmen City Interm. People's Ct. (广东省江门市中级人民法院), (2015)江中法刑—初字第 87 号, Mar. 22, 2016 (on file with the *Columbia Law Review*).

175. Henan Sui Cnty. People's Proc. v. Wang (睢县人民检察院诉王某), Henan Sui Cnty. People's Ct. (河南省睢县人民法院), (2016)豫 1422 刑初 533 号, Dec. 26, 2016 (on file with the *Columbia Law Review*); Huizhou Huiyang Dist. People's Proc. v. Yang (惠州市惠阳区人民检察院诉杨某、陈某), Huizhou Huiyang Dist. People's Ct. (广东省惠州市惠阳区人民法院), (2015)惠阳法刑一初字第 397 号, Sept. 18, 2015 (on file with the *Columbia Law Review*).

176. Hunan Qiyang Cnty. People's Proc. v. Yi (湖南省祁阳县人民检察院诉易某某), Hunan Qiyang Cnty. People's Ct. (湖南省祁阳县人民法院), (2016)湘 1121 刑初 176 号, June 30, 2016 (on file with the *Columbia Law Review*); Shantou Longhu Dist. People's Proc. v. Hu (广东省汕头市龙湖区人民检察院诉胡某某), Shantou Longhu Dist. People's Ct. (广东省汕头市龙湖区人民法院), (2015)汕龙法刑初字第 339 号, June 29, 2015 (on file with the *Columbia Law Review*). Not all such cases were deleted. Our audit of fifty organized crime cases showed that thirty-three had been deleted, but we could not differentiate between those deleted and those that remained online. Likewise, there does not appear to be significant provincial variation regarding the deletion of cases involving organized crime.

200 cases of "impersonating a soldier" were removed. These cases involve fraud committed by those pretending to be in the military, ranging from accepting payment to get someone into the military,[177] to claiming to be in the military, to offering to obtain military drivers' licenses.[178] Many cases involve men claiming to be in the military to seduce women for sex.[179] The more general crime of "deceit through impersonation" involved similar cases in which individuals pretended to be police or other officials, often to extort fines,[180] coerce sex workers for sex,[181] or seize money from drug users.[182] Both crimes risk suggesting that such conduct is common among the police and military (even if none of the cases involved actual police or members of the military), and perhaps encouraging copycat crimes.[183]

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177. Jieyang Jiedong Dist. People's Proc. v. Wang (揭阳市揭东区人民检察院诉王某某), Jieyang Jiedong Dist. People's Ct. (广东省揭阳市揭东区人民法院), (2015)揭东法刑初字第 291 号, Oct. 23, 2015 (on file with the *Columbia Law Review*).

178. Zhanjiang Chikan Dist. People's Proc. v. Li (湛江市赤坎区人民检察院诉李某), Zhanjiang Chikan Dist. People's Ct. (广东省湛江市赤坎区人民法院), (2015)湛赤法刑初字第 206 号, Dec. 30, 2015 (on file with the *Columbia Law Review*).

179. See, e.g., Baotou Qingshan Dist. People's Proc. v. Wang (包头市青山区人民检察院诉王某某), Baotou Qingshan Dist. People's Ct. (内蒙古自治区包头市青山区人民法院), (2015)包青刑初字第 69 号, May 5, 2015 (on file with the *Columbia Law Review*); Chongqing Dadukou Dist. People's Proc. v. Ding (重庆市大渡口区人民检察院诉丁某), Chongqing Dadukou Dist. People's Ct. (重庆市大渡口区人民法院), (2016)渝 0104 刑初 20 号, Mar. 10, 2016 (on file with the *Columbia Law Review*).

180. Tianjin Wuqing Dist. People's Proc. v. Zhang (天津市武清区人民检察院诉张某某), Tianjin Wuqing Dist. People's Ct. (天津市武清区人民法院), (2016)津 0114 刑初 744 号, Nov. 24, 2016 (on file with the *Columbia Law Review*).

181. Huaian Qingpu Dist. People's Proc. v. Wang (淮安市清浦区人民检察院诉王某、陈某某、江某某), Huaian Qingpu Dist. People's Ct. (江苏省淮安市清浦区人民法院), (2016)苏 0811 刑初 185 号, Dec. 22, 2016 (on file with the *Columbia Law Review*).

182. Guangdong Suixi Cnty. People's Proc. v. Chen (广东省遂溪县人民检察院诉陈某、吴某某), Guangdong Suixi Cnty. People's Ct. (广东省遂溪县人民法院), (2016)粤 0823 刑初 123 号, Apr. 12, 2016 (on file with the *Columbia Law Review*).

183. A leading website affiliated with the military argued that media coverage of "negative phenomena" concerning the military harms its image. See Ma Hongsheng, Guo Majing & Zhang Xi (马宏省、郭马菁、张曦), Quan Meiti Shidai Fangfan Jundui Xingxiang bei Fumian Guanlian Tanxi (全媒体时代防范军队形象被负面关联探析) [An Analysis on Preventing Negative Associations With the Military's Image in the All-Media Era], Junshi Jizhe (军事记者) [China Mil. Reporter], http://www.81.cn/jsjz/2021-03/05/content_9997246.htm [https://perma.cc/T66U-T4T8] (last visited Oct. 4, 2022). Another report in a military newspaper called for cases of impersonating military personnel to be punished strictly. See Chen Yu & Cao Kun (陈羽、曹昆), Maochong Junren Weifa Fanzui Bixu Yancheng (冒充军人违法犯罪必须严惩) [Impersonating a Soldier Must Be Punished Severely], Renming Wang (人民网) [People's Daily Online] (Apr. 13, 2020), http://military.people.com.cn/n1/2020/0413/c1011-31671355.html [https://perma.cc/VS9J-WHEA].

In our audit of cases involving the general crime of "deceit through impersonation," three of fifty cases remained online, one of which was a mislabeled case. There was no discernible difference between the removed cases and the two that remained publicly available, suggesting that the two remaining cases might have been accidentally left online.

The crime of "intentionally revealing state secrets" might suggest core concerns about national security.[184] In fact, almost all of the published cases in this category involve cheating on national exams—in particular, university admissions tests.[185] The cases risk casting the integrity of national exams in a bad light. The removal of the related crimes of illegally selling exam questions and answers[186] and the crime of illegally producing or selling espionage equipment (such as hidden spy cameras used to cheat on exams)[187] likewise reflect concern about public confidence in state-run exams.

Other deleted cases involved direct criticism of the police and other state officials. For example, criminal slander cases (which are one of a small number of categories of criminal cases that are initiated by private litigants, not the Procuratorate) often involve police or officials who file

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184. There is a total of seventeen such cases in our dataset, and our audit confirmed that they have all been deleted from CJO.

185. See, e.g., Jinan Lixia Dist. People's Proc. v. Liu (济南市历下区人民检察院诉柳某某), Jinan Lixia Dist. People's Ct. (济南市历下区人民法院), (2015)历刑二初字第 156 号, Dec. 11, 2015 (on file with the *Columbia Law Review*); Shandong Zhangqiu City People's Proc. v. Zeng (山东省章丘市人民检察院诉曾某某、宋某某、孔某), Shandong Zhangqiu City People's Ct. (山东省章丘市人民法院), (2015)章刑初字第 518 号, Jan. 27, 2016 (on file with the *Columbia Law Review*); Shanghai Yangpu Dist. People's Proc. v. Song (上海市杨浦区人民检察院诉宋某), Shanghai Yangpu Dist. People's Ct. (上海市杨浦区人民法院), (2015)杨刑初字第 988 号, Oct. 12, 2015 (on file with the *Columbia Law Review*). In a few cases, defendants revealed details of ongoing Communist Party anticorruption inspections or criminal investigations. See, e.g., Guiyang Nanming Dist. People's Proc. v. Zhang (贵阳市南明区人民检察院诉张某某、单某), Guiyang Nanming Dist. People's Ct. (贵州省贵阳市南明区人民法院), (2015)南刑初字第 654 号, July 25, 2016 (on file with the *Columbia Law Review*); Hunan Ningyuan Cnty. People's Proc. v. Wang (湖南省宁远县人民检察院诉王某某), Hunan Ningyuan Cnty. People's Ct. (湖南省宁远县人民法院), (2016)湘 1126 刑初 506 号, Nov. 25, 2016 (on file with the *Columbia Law Review*). This does not mean that most state secrets cases involve exam cheating. Cases involving more sensitive state secrets are likely never posted.

186. See, e.g., Baicheng Taobei Dist. People's Proc. v. Qi (白城市洮北区人民检察院诉齐某某、徐某某), Baicheng Taobei Dist. People's Ct. (吉林省白城市洮北区人民法院), (2016)吉 0802 刑初 111 号, May 20, 2016 (on file with the *Columbia Law Review*); Panjin Dawa Dist. People's Proc. v. Zhang (盘锦市大洼区人民检察院诉张甲某、王甲某、赵某、王甲某、朱某), Panjin Dawa Dist. People's Ct. (盘锦市大洼区人民法院), (2016)辽 1121 刑初 321 号, Dec. 16, 2016 (on file with the *Columbia Law Review*); Xuzhou Tongshan Dist. People's Proc. v. Zeng (徐州市铜山区人民检察院诉曾某), Xuzhou Tongshan Dist. People's Ct. (徐州市铜山区人民法院), (2016)苏 0312 刑初 715 号, Sept. 27, 2016 (on file with the *Columbia Law Review*). Not all such cases were removed: Ten of fifteen remained online, with no clear distinction between those deleted and those that remained online.

187. See, e.g., Hebei Yuanshi Cnty. People's Proc. v. Liu (河北省元氏县人民检察院诉刘某甲、王某某、张某某), Hebei Yuanshi Cnty. People's Ct. (河北省元氏县人民法院), (2015)元刑初字第 00109 号, Sept. 10, 2015 (on file with the *Columbia Law Review*); Henan Puyang Cnty. People's Proc. v. Ma (濮阳县人民检察院诉马某某、胡某某), Henan Puyang Cnty. People's Ct. (河南省濮阳县人民法院), (2016)豫 0928 刑初 754 号, Dec. 5, 2016 (on file with the *Columbia Law Review*); Yangzhou Hanjiang Dist. People's Proc. v. Fu (扬州市邗江区人民检察院诉符某), Yangzhou Hanjiang Dist. People's Ct. (江苏省扬州市邗江区人民法院), (2015)扬邗刑初字第 00175 号, Aug. 11, 2015 (on file with the *Columbia Law Review*). All fifty of our random sample of these cases were deleted from CJO.

charges in response to criticism.[188] In a case brought by prison officials, for instance, the court convicted a defendant of slander for alleging he was tortured while in prison.[189] Virtually all these cases were removed.[190]

Our data also reveal removals in response to hot-button issues that have drawn widespread domestic and international discussion and criticism. The crimes listed in Table 7 are all crimes for which the total number of cases available on CJO declined by at least ten percent between 2021 and 2022, meaning these cases continued to be deleted after the initial removal of cases that we observed in 2021.[191] Many of the categories of crimes showing continued deletions involve case types that were partially deleted in 2021 or earlier, including cases involving extortion, illegal business activities, and picking quarrels and causing trouble.[192] Continued deletion of these cases suggests an ongoing process of ensuring that these categories of crimes are removed. A small number of recently deleted cases involved state security or terrorism charges, and were likely never intended to have been posted online.[193]

Six new crimes appeared in our analysis in 2022—crimes for which we did not observe deletions in 2021.[194] Five of the six relate to issues in domestic and international news.[195] Three categories of removed cases involve the sale or hunting of wild animals.[196] There appear to be

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188. Ding v. Pan (丁某 1、储某、丁某 2、张某、丁某 3、丁某 4 诉潘某某), Fuyang Yingzhou Dist. People's Ct. (安徽省阜阳市颍州区人民法院), (2016)皖 1202 刑初 157 号, July 28, 2016 (on file with the *Columbia Law Review*) (concerning a defendant who allegedly made up and posted scandalous information about a police official); Yang v. Yang (杨某诉杨某), Xuzhou Tongshan Dist. People's Ct. (徐州市铜山区人民法院), (2015)铜刑自初字第 002 号, Sept. 22, 2015 (on file with the *Columbia Law Review*) (concerning a villager who posted comments about a village Communist Party secretary). There are also a few cases involving revenge porn and retaliation against ex-lovers mixed in, where privacy concerns might also support removal. See, e.g., Guo v. Wang (郭某甲诉王某某), Henan Qi Cnty. People's Ct. (河南省淇县人民法院), (2016)豫 0622 刑初 56 号, June 7, 2016 (on file with the *Columbia Law Review*) (involving a defendant who threatened to release nude photos of his ex-girlfriend if she did not pay him money and then distributed flyers with her image advertising prostitution). Fifteen of the thirty-four cases in our database involved allegations of malfeasance by a government actor.

189. Guangxi Tiane Cnty. People's Proc. v. Wei (广西壮族自治区天峨县人民检察院诉韦某某), Guangxi Tiane Cnty. People's Ct. (广西壮族自治区天峨县人民法院), (2014)峨刑初字第 95 号, July 23, 2015 (on file with the *Columbia Law Review*).

190. We have a total of thirty-four slander cases in our database. None remained online as of June 2022. See supra Table 6.

191. See supra Table 7.

192. See supra Table 7.

193. See supra Table 7.

194. See supra Table 7.

195. For the sixth crime, fraud involving financial certificates (金融凭证诈骗罪), all of the deleted cases appear to be from 2017. We are uncertain why these cases were deleted; our audit of cases involving the crime in our database shows that all fifty of the audited cases remain online.

196. The three crimes are: hunting or killing rare or endangered wild animals (非法猎捕、杀害珍贵、濒危野生动物罪); purchasing, transporting, or selling rare or endangered

inconsistent practices regarding the deletion of these cases, with many deleted cases coming from Yunnan Province, which borders Burma and Vietnam.[197] But the wild animal trade drew renewed attention both within China and internationally following the outbreak of COVID-19.[198] The definition of "wild animal" was also debated and clarified in 2022, and the courts may have removed previously decided cases that were in tension with the new interpretation.[199] Two other crimes related to human

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wild animals or their manufactured products (非法收购、运输、出售珍贵、濒危野生动物、珍贵、濒危野生动物制品罪); and smuggling prohibited rare animals and their products (走私珍贵动物、珍贵动物制品罪). See supra Table 7.

197. See, e.g., Yunnan Jinghong City People's Proc. v. Li (景洪市人民检察院诉李某甲), Yunnan Jinghong City People's Ct. (景洪市人民法院), (2015)景刑初字第 312 号, Aug. 10, 2015 (on file with the *Columbia Law Review*) (involving the illegal killing of wild animals in Yunnan); Yunnan Longchuan Cnty. People's Proc. v. Jiang (陇川县人民检察院诉蒋某某、貌某某), Yunnan Longchuan Cnty. People's Ct. (陇川县人民法院), (2016)云 3124 刑初 3 号, Apr. 8, 2016 (on file with the *Columbia Law Review*) (involving wild animal smuggling in Yunnan); Yunnan Mengla Cnty. People's Proc. v. Wang (勐腊县人民检察院诉汪某某、李某某), Yunnan Mengla Cnty. People's Ct. (勐腊县人民法院), (2017)云 2823 刑初 130 号, July 14, 2017 (on file with the *Columbia Law Review*) (involving the illegal killing of wild animals in Yunnan); Yunnan Tengchong Cnty. People's Proc. v. Wu (腾冲县人民检察院诉乌某某), Yunnan Tengchong Cnty. People's Ct. (腾冲县人民法院), (2015)腾刑初字第 48 号, Apr. 10, 2015 (on file with the *Columbia Law Review*) (same); Zhejiang Changshan Cnty. People's Proc. v. Zhang (常山县人民检察院诉张某某), Zhejiang Changshan Cnty. People's Ct. (常山县人民法院), (2013)衢常刑初字第 171 号, Nov. 25, 2013 (on file with the *Columbia Law Review*) (involving the purchase of wild animals in Zhejiang Province).

198. See Yifu Wang, Hannah B. Tilley, Sagarika Phalke, Astrid A. Andersson, Caroline Dingle, Chloe E.R. Hatten, Even Y.M. Leung, Derek Murphy, Kaja Wierucka & Hannah S. Murphy, Discussion of Wildlife Trade Before and During the COVID-19 Pandemic in Professional Opinion Pieces and Scientific Articles, 38 Glob. Ecology & Conservation, e02270, 2018, at 1, 2, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9411019/pdf/main.pdf [https://perma.cc/UW2U-A2EJ] ("[T]he recent COVID-19 outbreak sparked intense discussion of wildlife trade and its management due to its potential association with the SARS CoV2 virus origin and initial transmission . . . ."). In 2020, the National People's Congress issued an order banning the consumption of wild animals and an announcement of its intent to amend the Law on the Protection of Wild Animals. Ganyu Quanmian Jinzhi Feifa Yesheng Dongwu Jiaoyi, Gechu Lanshi Yesheng Dongwu Louxi, Qieshi Baozhang Renmin Qunzhong Shengming Jiankang Anquan de Jueding (关于全面禁止非法野生动物交易、革除滥食野生动物陋习、切实保障人民群众生命健康安全的决定) [Decision to Comprehensively Prohibit the Illegal Trade of Wild Animals, Break the Bad Habit of Excessive Consumption of Wild Animals, and Effectively Secure the Life and Health of the People] (promulgated by the Standing Comm. Nat'l People's Cong., Feb. 24, 2020, effective Feb. 24, 2020) 2020 Standing Comm. Nat'l People's Cong. Gaz. 259 (China); Hu Lu & Bai Yang (胡璐、白阳), Quanmian Jinzhi Feifa Yesheng Dongwu Jiaoyi, Gechu Lanshi Yesheng Dongwu Louxi—Quanguo Renda Changweihui Fagongwei Youguan Bumen Fuzeren Da Jizhe Wen (全面禁止非法野生动物交易 革除滥食野生动物陋习——全国人大常委会法工委有关部门负责人答记者问) [Completely Ban Illegal Wildlife Trade and Get Rid of the Bad Habit of Eating Wild Animals—Official of the Legislative Affairs Commission of the Standing Committee of the National People's Congress Answers Reporters' Questions], Xinhua Wang (新华网) [Xinhua Net] (Feb. 24, 2020), http://www.xinhuanet.com/politics/2020-02/24/c_1125620750.htm [https://perma.cc/5CWQ-BVEJ].

199. In 2022, the Supreme People's Court and Supreme People's Procuratorate issued a judicial interpretation clarifying that trading domestically raised wild animals is not a crime. Guanyu Banli Pohuai Yesheng Dongwu Ziyuan Xingshi Anjian Shiyong Falü Ruogan

trafficking, an issue that burst into the headlines following reports in Chinese media in early 2022 regarding a trafficked woman who had been found chained in a hut in Jiangsu Province.[200]

These cases also show significant regional variation, suggesting that the decision to remove cases is being made at the provincial (or lower) level. As of July 2022, the CJO website listed zero "trafficking women and

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Wenti de Jieshie, Fashi [2022] 12 Hao (关于办理破坏野生动物资源刑事案件适用法律若干问题的解释、法释【2022】12 号) [Interpretation of Some Questions Relating to the Handling of Cases Involving the Handling of Criminal Cases Relating to the Resources of Wild Animals] (promulgated by the Judicial Comm. Sup. People's Ct., Dec. 13, 2021, Thirteenth Proc. Comm. Sup. People's Proc., Feb. 9, 2022, effective Apr. 9, 2022) Sup. People's Ct. Gaz., Apr. 6, 2022, http://gongbao.court.gov.cn/Details/36a4ca123277fb16f8ced4deffdd07.html [https://perma.cc/7QRX-AKHN] (China).

200. See Zhang Yan & Wu Jipan (张妍、吴纪攀), Jiangsu Shengwei Shengzhengfu Diaochazu Fabu "Fengxian Shengyu Bahai Nüzi" Shijian Diaocha Chuli Qingkuang Tongbao (江苏省委省政府调查组发布"丰县生育八孩女子"事件调查处理情况通报) [Report on the Investigation and Handling of the Incident of the "Woman in Feng County Who Gave Birth to Eight Children" by the Investigation Team of the Jiangsu Provincial Party Committee and Government], Renming Wang (人民网) [People's Daily Online] (Feb. 23, 2022), http://www.xinhuanet.com/politics/2020-02/24/c_1125620750.htm [https://perma.cc/3GH7-8VGS]. Much of the online criticism related to how the local authorities handled the case, including their attempts to cover up the case and block access to journalists. See Li Yuan, Seeking Truth and Justice, Chinese See Themselves in a Chained Woman, N.Y. Times (Mar. 1, 2022), https://www.nytimes.com/2022/03/01/business/china-chained-woman-social-media.html?smid=url-share (on file with the *Columbia Law Review*) (describing public dissatisfaction with the Chinese government's inadequate, and seemingly insincere, response to the crime). But there has also been significant online criticism of how the legal system handles such cases more generally, including the lack of effective enforcement and seemingly lenient sentences available under the criminal law. See id. (reporting public disappointment in the government's failure to address human trafficking and forced marriage). For a report on local authorities actively participating in human trafficking, see Shangguan Jiaoming (上官敫铭), Shaoshi "Qier" (邵氏"弃儿") [The "Abandoned" Shao-Surnamed Babies], Caixin Zhoukan (财新周刊) [Caixin Wkly.] (May 9, 2011), https://magazine.caixin.com/2011-05-08/100256688.html [https://perma.cc/L6P3-JR9R]. For discussion about lenient sentencing and reforming the criminal law, see Dong Xin (董鑫), Jianyi Guaimai Funü Ertong "Maimai Tongzui" (建议拐卖妇女儿童"买卖同罪") [Suggesting "Buying and Selling Are the Same Crime" in the Crime of Abducting and Selling Women and Children], Beijing Qingnian Bao (北京青年报) [Beijing Youth Daily] (Mar. 4, 2022), http://society.people.com.cn/n1/2022/0304/c1008-32365737.html [https://perma.cc/WZ6S-XY4Y] (reporting increasing criminal penalties for human trafficking); Luo Xiang (罗翔), Bu Jiejiu Bei Guaimai Funü, Shi Yizhong Bu Zuowei de Jixu Fan (不解救被拐卖妇女，是一种不作为的继续犯) [Not Rescuing Abducted Women Is a Form of Continuing the Offense of Failing to Perform One's Duty], Zhongguo Xinwen Zhoukan (中国新闻周刊) [China Newsweek] (Mar. 4, 2022), https://www.inewsweek.cn/people/2022-03-04/15193.shtml [https://perma.cc/BND2-5ZGN]. For direct criticism of the courts for ruling against women in divorce cases in which the women argued that they were abducted and sold into marriage, see Sun Tingyang (孙庭阳), Bei Guaimai Funü Qisu Lihun! Fengxian Fayuan: Buyu Zhichi ｜Falü de Dixian Ne? (被拐卖妇女起诉离婚! 丰县法院:不予支持 ｜法律的底线呢?) [Abducted Women Sue for Divorce! Fengxian Court: Relief Denied ｜Where Is the Law's Bottom Line?], Zhongguo Jingji Zhoukan (中国经济周刊) [China Econ. Wkly.] (Feb. 15, 2022), https://finance.sina.com.cn/jjxw/2022-02-15/doc-ikyakumy6112411.shtml [https://perma.cc/FRW5-BAHQ].

children" cases from Guangdong for the years 2014 to 2016,[201] while our dataset includes eighty-four cases. Yunnan likewise removed most cases, leaving one case online, while our database includes 105 cases from 2014 to 2016.[202] Most other provinces showed a decline of only a small number of cases in this category.

These hot-button issues were the only crime types that showed significant regional variation in deletion practices. For types of crimes in which at least thirty percent of cases were deleted but more than twenty cases remained online, we examined deletions by province. With the exception of the human trafficking and wild animal cases,[203] we found no significant provincial-level differences in deletion practices. This suggests that variation may result not from provincial-level policy determinations but rather from differences in how courts implement or interpret signals and guidance from above. Given how risk-averse courts are, we might also expect there to be significant cross-court learning when it comes to deletions. This learning process may explain the ongoing deletions of some categories of cases.[204]

C. *Remaining Puzzles*

Many puzzles remain regarding CJO's deletion practices. CJO only appears to remove a small number of crimes that expose social ills. For example, many forced labor cases remain on the CJO site[205] despite

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201. Thirteen documents from Guangdong remain online, but none are decisions in criminal cases—all are sentence modification decisions. See Guaimai Funü, Ertong Zui, Guangdong Sheng (拐卖妇女、儿童罪、广东省) [Trafficking Women and Children, Guangdong Province], CJO, https://perma.cc/AVR2-N8HN (as updated Sept. 30, 2023).

202. As of September 2023, a search for trafficking cases on CJO by province showed seventeen cases available from Yunnan from 2014 to 2016. See Guaimai Funü, Ertong Zui, Yunnan Sheng (拐卖妇女、儿童罪、云南省) [Trafficking Women and Children, Yunnan Province], CJO, https://perma.cc/VSY6-EGS5 (as updated Sept. 30, 2023) (listing the number of trafficking cases by year in CJO). Clicking through the cases, however, reveals that only one case is posted in full. See Yunnan Malipo Cnty. People's Proc. v. Ran (云南省麻栗坡县人民检察院诉冉某某), Yunnan Malipo Cnty. People's Ct. (云南省麻栗坡县人民法院), (2016)云 2624 刑初 25 号, June 2, 2016 (on file with the *Columbia Law Review*). Clicking on the other cases reveals that only the case titles have been posted, not the actual decision.

203. Yunnan Province also appears to delete more cases involving the sale or hunting of wild or endangered animals than do other provinces, perhaps reflecting the greater concentration of such cases in Yunnan.

204. Similarly, we did not find evidence suggesting that cases involving certain types of litigants are more likely to be removed. Scholars writing on the United States have noted that there is less transparency in parts of the legal system that involve impoverished populations. See, e.g., Jay D. Blitzman & Steven F. Kreager, Transparency and Fairness: Open the Doors, 102 Mass. L. Rev. 38, 39 (2021) (arguing that juvenile court proceedings stemming from the cradle-to-prison pipeline in economically depressed areas have been afforded less transparency).

205. See, e.g., Hebei Xiong Cnty. People's Proc. v. Zhang (河北省雄县人民检察院诉张某甲、周某某、杨某甲、刘某某), Hebei Xiong Cnty. People's Ct. (河北省雄县人民法院), (2015)雄刑初字第 001 号, Jan. 12, 2015 (on file with the *Columbia Law Review*); Henan Anyang Cnty. People's Proc. v. Guan (安阳县人民检察院诉关某某), Henan Anyang Cnty.

widespread attention to the issue in the domestic and international media and commitments from the central government to reduce such abuses.[206] Some forced labor cases from 2015 and 2016 involved employers compelling work from those with physical or cognitive disabilities, minor girls, or homeless individuals.[207] We are left guessing why revealing the trade in dead bodies is more sensitive than cases exposing forced labor and wondering about the trigger that resulted in the dead bodies cases being removed.[208] Such inconsistencies suggest that decisions to delete categories of cases are likely in response to specific concerns or media coverage, not to a general policy of covering-up social ills. Likewise, isolated corruption cases have been deleted, but many corruption cases remain available on CJO.

Our audit of a random sample of 500 criminal cases from each of 5 provinces, a total of 2,500 cases, suggests that the majority of case deletions are cases that mention one of the 19 deleted crime categories.[209] Of the

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People's Ct. (河南省安阳县人民法院), (2016)豫 0522 刑初 252 号, Sept. 6, 2015 (on file with the *Columbia Law Review*); Kunming Wuhua Dist. People's Proc. v. Ji (昆明市五华区人民检察院诉姬某甲、姬某乙、姬某丙), Kunming Wuhua Dist. People's Ct. (昆明市五华区人民法院), (2015)五法刑一初字第 692 号, Dec. 14, 2015 (on file with the *Columbia Law Review*); Shandong Anqiu City People's Proc. v. Qi (安丘市人民检察院诉亓某), Shandong Anqiu City People's Ct. (山东省安丘市人民法院), (2016)鲁 0784 刑初 134 号, May 13, 2016 (on file with the *Columbia Law Review*); Yunnan Songming Cnty. People's Proc. v. Zhang (嵩明县人民检察院诉张某某、陈某某、谭某甲), Yunnan Songming Cnty. People's Ct. (云南省嵩明县人民法院), (2015)嵩刑初字第 279 号, Jan. 28, 2016 (on file with the *Columbia Law Review*). We read and audited fifty such cases because our initial comparison of the number of such cases listed on the CJO website to those in our database suggested that the cases had been removed. The audit revealed that only one of the fifty audited cases had been deleted.

206. Guowuy uan Bangong Ting Guanyu Zhuanfa Laodong Baozhang Bu Deng Bumen Kaizhan Zhengzhi Feifa Yonggong Daji Weifa Fanzui Zhuanxiang Xingdong de Tongzhi (国务院办公厅关于转发劳动保障部等部门开展整治非法用工打击违法犯罪专项行动方案的通知) [Notice of the General Office of the State Council on Forwarding the Plans by the Ministries of Labor, Social Security, and Others to Carry Out a Special Action for Rectifying Illegal Employment and Related Crimes], Guowuy uan Bangong Ting (国务院办公厅) [Gen. Off. of China State Council] (Mar. 28, 2008), https://www.gov.cn/zhengce/content/2008-03/28/content_6641.htm [https://perma.cc/H6KS-SYT9] (reporting a government initiative to rectify unlawful labor practices).

207. See, e.g., Guangzhou Yuexiu Dist. People's Proc. v. Chen (广东省广州市越秀区人民检察院诉陈某、颜某), Guangzhou Yuexiu Dist. People's Ct. (广东省广州市越秀区人民法院), (2015)穗越法刑初字第 322 号, Apr. 8, 2015 (on file with the *Columbia Law Review*) (minor girls); Henan Anyang Cnty. People's Proc. v. Guan (安阳县人民检察院诉关某某), Henan Anyang Cnty. People's Ct. (河南省安阳县人民法院), (2016)豫 0522 刑初 252 号, Sept. 6, 2015 (on file with the *Columbia Law Review*) (psychiatric patients); Hunan Chenxi Cnty. People's Proc. v. Zheng (湖南省辰溪县人民检察院诉郑某某、杨某某), Hunan Chenxi Cnty. People's Ct. (湖南省辰溪县人民法院), (2015)辰刑初字第 47 号, Sept. 29, 2015 (on file with the *Columbia Law Review*) (homeless and mentally disabled workers).

208. Our initial comparison of our data to the CJO case numbers suggested that more than a third of the forced labor cases had been removed. Our subsequent auditing of a random sample of these cases, however, showed that these cases remained online.

209. We selected the five provinces where comparing CJO data to our database showed that at least five percent of criminal cases had been deleted: Jiangsu, Gansu, Beijing, Shandong, and Zhejiang. We then manually audited five hundred cases from each province

2,500 audited cases, 292 cases, or 12%, are no longer available online.[210] Yet 64% of the deleted cases, 187 cases, involve categories of crimes analyzed above or mention such crimes in their description of the facts of the case. For example, 3 deleted cases from Beijing involved routine drunk driving cases. One included the phrase "picking quarrels and causing trouble" and one referred to "extortion."[211] This suggests that cases are being deleted not just by searching for cases by crime-type, but also through keyword searches for particular crimes. Only 4 of the 68 deleted cases from Beijing made no mention of the categories of crimes that we have identified as being deleted.

Privacy concerns appear to play a lesser role than do the mention of specific deleted crimes. Some deleted cases in the random sample of 2,500 cases included personal information, including the full name, of defendants or witnesses—information that should have been redacted per SPC rules.[212] The inconsistent practice of redacting names reflects the fact the SPC's policy on redacting litigants' given names only became clear in 2016; in the early years of CJO, many local courts did not redact names.[213] But these cases make up a relatively small percentage of the cases in the random sample. In cases from Beijing, for example, only one case appeared likely to have been deleted due to concerns about privacy.[214] The

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to see if cases remained online by searching CJO by both case number and parties' names or other identifying information.

210. Of 500 audited cases from each of the five provinces, 40 were deleted from Zhejiang, 49 from Jiangsu, 64 from Shandong, 68 from Beijing, and 71 from Gansu.

211. The three deleted cases appeared to have revealed private information regarding the defendant that should have been redacted, including the defendant's date of birth. See Beijing Mentougou Dist. People's Proc. v. Lin (北京市门头沟区人民检察院诉林某某), Beijing Mentougou Dist. People's Ct. (北京市门头沟区人民法院), (2016)京 0109 刑初 130 号, Oct. 17, 2016 (on file with the *Columbia Law Review*) (extortion); Beijing Xicheng Dist. People's Proc. v. Yang (北京市西城区人民检察院诉杨某), Beijing Xicheng Dist. People's Ct. (北京市西城区人民法院), (2015)西刑初字第 398 号, June 4, 2015 (on file with the *Columbia Law Review*) (routine drunk driving); Beijing Yanqing Dist. People's Proc. v. Zheng (北京市延庆区人民检察院诉郑某), Beijing Yanqing Dist. People's Ct. (北京市延庆区人民法院), (2016)京 0119 刑初 10 号, Jan. 26, 2016 (on file with the *Columbia Law Review*) (picking quarrels and causing trouble).

212. See, e.g., Jiangsu Guannan Cnty. People's Proc. v. Sun (江苏省灌南县人民检察院诉孙某、许某某), Jiangsu Guannan Cnty. People's Ct. (江苏省灌南县人民法院), (2016)苏 0724 刑初 397 号, Nov. 29, 2016 (including names and birthdays of defendants).

213. See, e.g., Stern et al., Automating Fairness, supra note 18, at 537; Renmin Ribao (人民日报) [People's Daily], Fayuan Caipan Wenshu Za Gongkai (法院裁判文书咋公开) [How Are Court Judgments Made Public], Zhongguo Gongchandang Xinwen Wang (中国共产党新闻网) [Chinese Communist Party News Website] (Nov. 29, 2013), http://cpc.people.com.cn/n/2013/1129/c83083-23691905.html [https://perma.cc/UK5W-SFXW] (report from 2013 stating that names of parties should be disclosed, except in specific categories of cases).

214. Beijing Huairou Dist. People's Proc. v. Guo (北京市怀柔区人民检察院诉郭某某), Beijing Huairou Dist. People's Ct. (北京市怀柔区人民法院), (2016)京 0116 刑初 6 号, Jan. 21, 2016 (on file with the *Columbia Law Review*).

case included the defendant's full name, gender, and date of birth, suggesting that the case had not been properly redacted.[215]

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215. See id. These cases may have been deleted due to their significant social impact. See Beijing Chaoyang Dist. People's Proc. v. Huo (北京市朝阳区人民检察院诉霍某), Beijing Chaoyang Dist. People's Ct. (北京市朝阳区人民法院), (2016)京 0105 刑初 2481 号, Dec. 21, 2016 (concerning harm to telecommunications equipment); Beijing Chaoyang Dist. People's Proc. v. Zhao (北京市朝阳区人民检察院诉赵某某), Beijing Chaoyang Dist. People's Ct. (北京市朝阳区人民法院), (2016)京 0105 刑初 1024 号, Aug. 12, 2016 (on file with the *Columbia Law Review*) (concerning fraud that involved alleged corruption); Beijing Fengtai Dist. People's Proc. v. Li (北京市丰台区人民检察院诉李某、杨某), Beijing Fengtai Dist. People's Ct. (北京市丰台区人民法院), (2016)京 0106 刑初 1529 号, Nov. 22, 2016 (on file with the *Columbia Law Review*) (involving the sale of fake medicine). It is also possible these cases were removed at the request of the defendants. We have no explanation for the deletion of the final case, a routine theft case. Beijing Huairou Dist. People's Proc. v. Guo (北京市怀柔区人民检察院诉郭某某), Beijing Huairou Dist. People's Ct. (北京市怀柔区人民法院), (2016)京 0116 刑初 6 号, Jan. 21, 2016 (on file with the *Columbia Law Review*).

In the cases from Jiangsu, 30 of the 48 deleted cases mentioned crimes listed in Table 6. Ten deleted cases appeared to involve private information about litigants. Eight deletions did not appear to be explained by either privacy concerns or the mention of sensitive crimes. In the cases from Zhejiang, 33 of the 40 cases mentioned deleted crimes while 6 cases appeared to relate to privacy concerns. Only 1 deletion was not explained. In the cases from Shandong, 40 of the 64 deleted cases mentioned one of three deleted crimes: picking quarrels and causing trouble, extortion, or illegal business activities. The outlier in our sample was Gansu, where only 21 of 71 deleted cases mentioned deleted categories of cases. Gansu deleted 27 cases due to apparent privacy concerns; some of these cases mentioned the names of witnesses or the personal identification number of defendants. Twenty-three deletions were not explained by privacy or crime type; these largely involved minor crimes such as dangerous driving or theft. The difference between Gansu and the 3 other provincial-level jurisdictions is likely due to court resources: Gansu courts appeared to have redacted far less information from cases than the 3 eastern and more developed jurisdictions. One of the deleted cases from Shandong appeared to be deleted for an unusual reason: A lawyer in the case was named Li Keqiang, the identical name to China's then-premier. See Shandong Junan Cnty. People's Proc. v. Cheng (山东省莒南县人民检察院诉程某某), Shandong Junan Cnty. People's Ct. (山东省莒南县人民法院), (2016)鲁 1327 刑初 484 号, Sept. 29, 2016 (on file with the *Columbia Law Review*). The deletion of this case supports our finding that keyword searches are likely being used to delete cases. A keyword search of the name on CJO turned up no results. Li Keqiang (李克), CJO, https://perma.cc/UES2-D9J8 (as updated June 11, 2023). In all five provinces, some of the unexplained deletions were for dangerous driving or other driving-related crimes. This is likely due to pressure from litigants to remove such cases.

We also conducted an audit of a random sample of 500 theft cases from 2015 from Jiangsu province. We did this because theft was the most commonly prosecuted crime in China at the time. See China Among Countries With Lowest Crime Rate as Violent Crime Plummets Over Past Five Years: Top Procuratorate, Glob. Times (Feb. 15, 2023), https://www.globaltimes.cn/page/202302/1285499.shtml [https://perma.cc/LB9W-ZT5H] (noting that theft topped the list of cases filed and cases in prosecuted in China for over forty years but was replaced by drunk driving in 2019). Of these 500 samples theft cases, 32 were no longer available online as of September 2023. Ten of these cases referred to prior convictions or arrests for a deleted crime. Another four deleted cases involved possible sensitive issues—two cases referred to a prior conviction for hooliganism, a crime that was replaced by "picking quarrels and causing trouble" in the 1990s. Jiangsu Zhangjiagang City People's Proc. v. Hou (江苏省张家港市人民检察院诉侯某), Jiangsu Zhangjiagang City People's Ct. (江苏省张家港市人民法院), (2015)张刑二初字第 00254 号, July 28, 2015 (on

Taken together, the audits suggest that most deletions are because cases involve or mention one of the crimes listed in Table 6. Of the thirty-seven percent of deleted cases not explained by mention of one of these crimes, at least some appear to relate to privacy concerns, for which there also appears to be some variation in provincial practice. Other deletions may be ad hoc, may occur in response to complaints from individuals, or may reflect local sensitivities.

V. IMPLICATIONS

The removal of cases from the CJO website reflects shifting policies, nationally and in the courts. The initial launch of CJO came at a time when many in the legal system and academia were optimistic about the possibility of deepening legal reforms and about using transparency to address a range of governance challenges. Today, courts are far more risk-averse and reforms are more limited. The courts are following signals from the top, and Party leaders have deemphasized transparency amid new calls for data security, enhanced censorship, and greater emphasis on top-down control over Chinese society.[216] The retreat from transparency in the courts is just one manifestation of a broader shift away from a range of governance tools that are more often associated with democratic governance than authoritarianism. China originally embraced a range of these governance tools in the early 2000s, including village elections, public participation in legislative drafting, media oversight, public interest

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file with the *Columbia Law Review*) (prior convictions for hooliganism, theft, extortion, and assault); Yancheng Huting Dist. People's Proc. v. Chen (盐城市亭湖区人民检察院诉陈某), Yancheng Huting Dist. People's Ct. (江苏省盐城市亭湖区人民法院), (2015)亭刑二初字第 00303 号, Nov. 19, 2015 (on file with the *Columbia Law Review*) (prior convictions for hooliganism, theft, fraud, and other crimes); see also Picking Quarrels: Lu Yuyu, Li Tingyu and the Changing Cadence of Class Struggle in China, Chuang, https://chuangcn.org/journal/two/picking-quarrels/ [https://perma.cc/HFB6-G6CP] (last visited Aug. 22, 2023) (noting that Chinese criminal law specified narrower crimes that used to be encompassed by hooliganism). Another involved a prior conviction for rape, while one case involved a co-defendant who was a minor. Wuxi Beitang Dist. People's Proc. v. Hu (无锡市北塘区人民检察院诉胡某), Wuxi Beitang Dist. People's Ct. (江苏省无锡市北塘区人民法院), (2015)北刑二初字第 0152 号, Nov. 23, 2015 (on file with the *Columbia Law Review*) (minor codefendant); Wuxi Chongan Dist. People's Proc. v. Pan (无锡市崇安区人民检察院诉潘某), Wuxi Chongan Dist. People's Ct. (江苏省无锡市崇安区人民法院), (2015)崇刑二初字第 038 号, Mar. 6, 2015 (on file with the *Columbia Law Review*) (prior rape conviction). One defendant was Uyghur, likely making the case sensitive. Nanjing Gulou Dist. People's Proc. v. Alimu (南京市鼓楼区人民检察院诉阿力木), Nanjing Gulou Dist. People's Ct. (南京市鼓楼区人民法院), (2015)鼓刑二初字第 90 号, Mar. 23, 2015 (on file with the *Columbia Law Review*). Thirteen additional deleted cases included material that should have been redacted, most often not just the names but also the addresses of defendants. But many cases that remain online also contained such information, suggesting that some courts may be more diligent than others in removing unredacted cases. We saw no obvious reason for deletion in eighteen of the deleted theft cases.

216. On the importance of state signals and the difficulty of interpreting them, see Rachel E. Stern & Kevin J. O'Brien, Politics at the Boundary: Mixed Signals and the Chinese State, 38 Mod. China 174, 177–78 (2012).

lawyering, and open government litigation.[217] The removal of hundreds of thousands of cases also suggests a heightened level of insecurity about public discussion of court cases within China, despite few examples of the publication of cases online causing problems for or criticism of the courts.

Yet the deletions also suggest a desire by court officials to manage transparency, not abandon it. The number of deleted crimes remains relatively small: fewer than 20 out of more than 450 possible crimes.[218] The fact that so much energy is being put into making cases public and to curating what has been made public, however, also suggests a recognition of the potential of legal information to shape both relationships between the courts and other parts of the Party-State and courts' role in Chinese society. How authoritarian courts shape narratives about the legal system may be a source of judicial authority, one that prior scholarship on authoritarian courts has largely overlooked.

This Part discusses two implications of our findings. We first examine the mechanism by which China's courts have made cases public, and specifically, we evaluate how the transparency initiatives of China's courts resonate with prior scholarship on censorship and information management in China. We discuss the implications of our findings for the conceptualization of information management in authoritarian regimes, highlighting the interconnectedness of censorship, transparency, and surveillance. We then turn from the mechanism of court transparency to the implications of this Essay's findings for understanding the role of courts in authoritarian states. We discuss how beyond addressing malfeasance in the courts, the embrace of transparency has allowed Chinese courts to curate a narrative of being world-leaders, a narrative with the potential to boost Chinese courts' image and authority with multiple audiences.

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217. See Lorentzen et al., supra note 20, at 184 (noting that the Chinese Communist Party had introduced practices like "holding village elections, reinvigorating legislative bodies, tolerating small-scale public protests, and granting greater journalistic freedom" (citing Jean C. Oi, Realms of Freedom in Post-Mao China, *in* Realms of Freedom in Modern China 264, 264–84 (William C. Kirby ed., 2004); Andrew J. Nathan, China's Changing of the Guard: Authoritarian Resilience, J. Democracy, Jan. 2003, at 6, 6–17). One counterexample may be the Party-State's embrace of laws protecting privacy, where China appears to be following other states in responding to the growth of the digital economy and profusion of personal data online by strengthening legal protections. As Mark Jia shows, enhanced legal protections for privacy may be best understood as a response to popular demands for greater protections within China, not merely an attempt to boost the digital economy, to expand China's international influence, or to enhance the state's ability to control data. See Mark Jia, Authoritarian Privacy, 91 U. Chi. L. Rev. (forthcoming 2024) (manuscript at 4–6), https://ssrn.com/abstract=4362527 [https://perma.cc/DLY5-MESW] ("The [P]arty-state's strategy has been to deploy a mix of policy responsiveness, law-making, and law-enforcement to repair legitimation deficits stemming from data discontent. This is discernible from an array of sources, including speeches, reports, media, cases, laws, regulations, and campaigns . . . .").

218. See supra Table 7.

A. *Authoritarian Information Management*

The limited prior scholarship on the online publication of court judgments in China (including some of our own) largely focuses on why China's courts suddenly shifted to embrace the release of vast amounts of information. Most of the explanations fit with existing instrumentalist explanations for why authoritarian states embrace transparency. This literature is disconnected from the empirical study of censorship, which focuses on the mechanisms used to manage information. Examining CJO suggests that transparency is bi-directional and that transparency, censorship, and surveillance are interconnected parts of a toolkit for information management, each of which can be modulated and manipulated.

CJO's user interface and the curation of data on the CJO site both borrow from China's own propaganda practices.[219] Crimes such as picking quarrels and causing trouble that potentially involve protest have been removed, as have speech crimes and cases involving Falun Gong adherents. All of these involve the possibility of collective action and escalation (even if only in a very small number of cases), and potentially international criticism. As with censorship more generally, CJO's case removals are often reactive and blunt tools. Sensitivity contagion is common, with non-sensitive cases being removed because the crime charged is the same as the crime in cases with more sensitive facts.[220] Concern about exposing social ills is also not novel in China or other socialist countries.[221] Similarly, the interests of state entities, organizations,

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219. In many courts, the task of managing the release of information has been given to court propaganda offices, which manage media coverage of the courts and generate positive news about the courts. Bangongting (Xinwenju) (办公厅(新闻局)) [Gen. Off. (News Bureau)], Zuigao Renmin Fayuan (最高人民法院) [Supreme People's Ct.], https://www.court.gov.cn/jigou/fayuanjigou/zhineng/81.html [https://perma.cc/8735-ZHJV] (last visited Sept. 29, 2023).

220. A related insight from our findings is that just as transparency can encourage more transparency, rollbacks from transparency can encourage other actors to restrict access to information. Scholarship on the United States has noted a similar phenomenon of "cascades of transparency" that can follow from the initial disclosure of information through the Freedom of Information Act. Seth F. Kreimer, The Freedom of Information Act and the Ecology of Transparency, 10 J. Const. L. 1011, 1056 (2008); see also David E. Pozen, The Leaky Leviathan: Why the Government Condemns and Condones Unlawful Disclosures of Information, 127 Harv. L. Rev. 512, 624 (2013) (discussing how leaks can encourage further disclosure of information). The sensitivity contagion that we observe is in many ways the mirror image of this phenomenon. Removals of small numbers of sensitive cases appear to lead to wider retreats from transparency, including the deletion of thousands of routine cases simply because they involve the same crime as do a small number of sensitive cases or mention such crimes in summarizing defendants' prior convictions.

221. Scholarship on East German courts, for example, has noted courts' concerns with covering up or minimizing social ills. See Inga Markovits, Justice in Luritz: Experiencing Socialist Law in East Germany 122, 150–54 (2010) (explaining that the East German Criminal Code allowed for state supervision of "people whose disorderly lifestyle suggested that at some future point in time they might conceivably be tempted to break the law"); see

and localities have long played a role in censorship in China, most notably in the longstanding practice of local media only being permitted to write negative stories about events outside their home jurisdictions.[222]

CJO has also embraced a strategy of transparency flooding, a parallel to the information-flooding strategy China deploys in managing the media.[223] In the courts, the volume of cases released obscures holes in what is made available and what is removed. With so much data available for study, scholars, lawyers, and journalists have little reason to focus on the more difficult task of analyzing gaps in the data.[224]

CJO's poor user interface and often-frustrating search functionality may also be by design.[225] Creating friction for users seeking information and thus diverting their attention elsewhere has been a key element of China's approach to censorship, particularly through constructing firewalls limiting access to sources overseas.[226] In the courts, the friction comes from CJO itself, with often-inconsistent search results, limits on daily downloads, and a slow user interface. Recent redactions of cases by commercial websites that mirror CJO raise the question of whether data may in the future be so redacted as to limit their effective use.[227]

The ad hoc nature of some of the case deletions is also consistent with longstanding censorship practices. Why are searches of some terms, such as "picking quarrels and causing trouble," blocked, even though a small number of cases that include the term remain? Why are some obviously

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also Robert Darnton, Censors at Work: How States Shaped Literature 151 (2014) ("[T]he [Berlin] Wall had helped to make the [German Democratic Republic] a 'Leseland,' a country of readers, [an East German censorship officer] explained. It had kept out the corruption of consumer culture. Once breached, it could not withstand the schlock—the sex books, advertising blitzes, and sleazy romances . . . .").

222. See Benjamin L. Liebman, Watchdog or Demagogue? The Media in the Chinese Legal System, 105 Colum. L. Rev. 1, 47 (2005) [hereinafter Liebman, Watchdog or Demagogue] (noting that "critical media reports generally expose misdeeds either at a lower administrative rank than or in a jurisdiction other than that in which the report will be published or aired").

223. See Roberts, Censored, supra note 2, at 195, 198–99 (reviewing China's "information flooding strategies" by evaluating how the government coordinates information as a censorship method).

224. There have been notable attempts to do so, however, by a few scholars in China. See supra notes 36–37.

225. Friction is not unique to CJO. In the United States, the federal courts' public database, PACER, has been widely criticized for its poor user interface, high cost, and limited search functionality. See, e.g., Rachel F. Adler, Andrew Paley, Andong L. Li Zhao, Harper Pack, Sergio Servantez, Adam R. Pah, & Kristian Hammond, A User-Centered Approach to Developing an AI System Analyzing U.S. Federal Court Data, 31 A.I. & L. 547, 548 (2023) (characterizing PACER as having a "non-intuitive user interface"); see also Terri Williams, Out of Pace With Reality? PACER's Flaws Run Counter to Original Purpose of Increasing Access to Law, ABA J. (Apr. 30, 2020), https://www.abajournal.com/web/article/out-of-pace-with-reality-pacer [https://perma.cc/8YN7-9RGE] (emphasizing the high costs associated with PACER usage and reinforcing the need for free access).

226. Roberts, Censored, supra note 2, at 2, 147.

227. Huang Wenxu, supra note 57.

sensitive cases online, such as a small number of illegal border-crossing cases involving Uyghur defendants, despite others being deleted? Censorship in China has always been arbitrary; the ambiguity about what is permitted is part of the censorship strategy.[228] For the courts, this ambiguity is written into the law in the form of rules authorizing courts not to post any "other cases not suitable for publication."[229]

Recognizing the interconnectedness of transparency and censorship yields three insights. The first is that the plasticity of the idea of transparency means that it is relatively easy for official actors to claim to embrace transparency while at the same time expanding the range of reasons for managing or restricting information disclosure. Much writing on authoritarian transparency has framed such efforts as borrowing an effective governance tool from Western liberal systems and deploying transparency to serve the interests of authoritarian rulers.[230] Yet Western literature has long recognized that transparency can breed deception and manipulation of the truth by inducing actors to change the reasoning given for their decisions.[231] Recent writing on transparency in the United States has noted how transparency can be weaponized to serve corporate interests seeking to block government regulation. One irony is that official voices in China, in the courts and in government, began to buy into the narrative of transparency as a cure-all to a range of governance challenges at the same time that scholars and government actors elsewhere were recognizing the limits of transparency as a tool for changing institutions.[232] This should not be surprising: The goals of transparency efforts in China have been designed to be limited to improving governance and oversight

228. See, e.g., Liebman, Watchdog or Demagogue, supra note 222, at 46–50 (discussing inconsistency in censorship practices and widespread use of informal norms in regulating the media).

229. See supra notes 27–28 and accompanying text. The inconsistent practices may also reflect mixed incentives facing court leaders and individual judges, who have faced pressures to put cases online but also do not want to offend powerful litigants or institutions. Removing cases is likely easier than not doing so, particularly when courts are faced with a specific request to remove them.

230. See supra notes 3–4 and accompanying text.

231. C. Thi Nguyen, Transparency Is Surveillance, 105 Phil. & Phenomenological Rsch. 331, 333 (2022) (citing Onora O'Neill, A Question of Trust: The BBC Reith Lectures (2002)) [hereinafter Nguyen, Transparency Is Surveillance]. A separate but related line of scholarship notes that transparency can also be used to obscure by hiding both what is not made public and the "many dimensions of the output process." Marilyn Strathern, The Tyranny of Transparency, 26 Brit. Educ. Rsch. J. 309, 315 (2000). As Marilyn Strathern argues, a central question is, "What does visibility conceal?" Id. at 310.

232. See Amitai Etzioni, The Limits of Transparency, 74 Pub. Admin. Rev. 687, 687 (2014) (noting that transparency is not a substitute for effective regulation); Greg Michener, FOI Laws Around the World, J. Democracy, Apr. 2011, at 145, 147 (arguing that transparency can be used to shield oppressive actions); David E. Pozen, Freedom of Information Beyond the Freedom of Information Act, 165 Pa. L. Rev. 1097, 1156 (2017) [hereinafter Pozen, Freedom of Information] (arguing that providing transparency alone is unlikely to transform institutions).

and have not aimed to fundamentally reshape governance or society.[233] Although there has been some concern within China that corporate actors might seek to use SPC data in ways that serve private, not public, interests, there has been generally little attention to the potential "dark side" of sunlight,[234] in the courts or elsewhere. The fact that transparency is so widely embraced but also lacks substantive content may be one of the key attractions of the idea of transparency for Chinese authorities.[235]

A second insight is that censorship of information increasingly takes place not just via the propaganda department, cybersecurity agency, or social media companies but also through the day-to-day actions of a range of state actors who produce public information. Courts are just one of many institutions that are both producing and censoring information. Information management has become an overarching political goal in China, akin to stability maintenance.[236] Most, if not all, Party-State institutions are now engaged in various forms of information management. More public data means more information managers, each with their own potential agendas. Decisions to censor reflect not just top-down commands but also horizontal learning among frontline bureaucratic actors in response to what is made public and also what is removed.[237] Regional differences are also apparent at times.[238] Concerns about political sensitivity and institutional interests are combining with relatively new worries about data security and the release of personal information in ways that lead state and private actors to be increasingly risk-averse in making information public. This helps to explain the changes to the commercial websites that had been mirroring CJO. Such moves also highlight how concerns about data security and privacy can be used to justify the removal of an almost limitless range of information.

Third, our findings highlight ways in which China's transparency efforts may be a two-way mirror. Existing literature focuses on how higher-level authorities can use transparency to monitor lower-level wrongdoing. Our findings suggest that transparency platforms can also be an effective tool for monitoring those who seek official information. The SPC has

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233. To some degree, the goals of the transparency effort were not entirely clear, beyond a general sense that making cases public would help to curb judicial wrongdoing and boost courts' legitimacy.

234. See supra note 82 and accompanying text.

235. At least some official writing on transparency in the Chinese courts describes it in technocratic terms, positioning transparency as a tool that, alongside other innovations such as increased use of technology, can provide higher "quality" results. SPC Party Group, Step Forward, supra note 16.

236. See Benjamin L. Liebman, Legal Reform: China's Law-Stability Paradox, 143 Dædalus, no. 2, 2014, at 96, 102 (analyzing China's efforts to "maintain stability at all costs" using the legal system to resolve "threats to stability").

237. In the courts, these frontline bureaucrats are most likely to be the court propaganda officials responsible for removing individual cases.

238. Regional differences have long been evident in censorship of traditional media as well. Liebman, Watchdog or Demagogue, supra note 222, at 44, 93.

published reports of visits to the CJO website by province and by country, celebrating the use of CJO globally.[239] We do not know what the SPC does with information about how individuals use the site. The fact that all users must register with an authenticated phone number[240] (and when creating a new account via WeChat, China's dominant social media platform, must submit a signature, personal identification number, and photo for facial recognition) creates the possibility that any search can be linked back to an individual user. The SPC has stated that such steps are necessary to combat commercial web scraping that reduces the functionality of the website for other users.[241] But the fact that CJO may have information on every search made on its website may also serve as a deterrent to those seeking information on sensitive topics. Transparency can also be a tool of surveillance.[242]

Recognizing the interconnectedness of transparency, censorship, and surveillance also carries important implications for scholars seeking to use CJO or other official databases. Scholars must continue to study what is missing, seek to understand how states curate data, and identify pockets of good quality data. What is public and what is not public are likely to be important research questions across a range of legal systems.

B. *Transparency as a Narrative*

Tracking deleted cases adds a layer of complexity to explanations of why Chinese courts embraced transparency in the first place. Prior writing on CJO (including our work) has largely focused on instrumental explanations: Placing cases online was a tool for courts to curb malfeasance and align courts with national policies of embracing data and new technologies as instruments of governance.[243] Yet Chinese courts are not just borrowing existing tools of information management and applying them to court data to curb corruption or facilitate access to the

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239. See Jiang Peishan et al., supra note 15 (describing the number of publicly available cases as a watermark for the realization of a more transparent judiciary).

240. Luo Sha, supra note 65.

241. Id.

242. The idea that transparency can become a tool of surveillance is addressed by philosopher C. Thi Nguyen, who argues that excessive focus on transparency can become "a form of intrusive monitoring" of state actors that may undermine objectivity. Nguyen, Transparency Is Surveillance, supra note 231, at 333. In contrast, the surveillance we describe moves in the other direction, from state actors to those seeking to use state data.

243. See, e.g., Liebman et al., supra note 13, at 182 ("[L]arge-scale release of court documents may be viewed . . . as a way to serve Party goals by curbing wrongdoing in the courts. . . . [J]udges are more likely to follow the law and less likely to engage in malfeasance when they know their work will be made public."); Stern et al., Automating Fairness, supra note 18, at 519 ("Overall, then, Chinese courts have tried to use technology in three ways: to improve the courts' ability to monitor society and defuse social conflict, to improve oversight of judges and reduce malfeasance, and to move toward a world in which judges rely on algorithms to boost efficiency and consistency.").

legal system. Courts are building a narrative surrounding transparency to boost their domestic and international legitimacy.

Creating a narrative that equates the volume of cases made public with fairness may be the most significant accomplishment of the CJO website.[244] The fact that 141 million cases are public is taken as evidence by court officials that the courts are fair.[245] Placing vast numbers of cases

244. On the curation of narrative as a tool of censorship, see Roberts, Censored, supra note 2, at 108 ("The government keeps a much closer watch on the media infrastructure itself than on typical citizens. The propaganda department issues directives to the traditional media ordering them either not to report on content or to promote particular types of content."). Court leadership has repeatedly noted that transparency is central to boosting public trust in the courts. See, e.g., Bai Wansong (白宛松), Zhou Qiang: Shenru Tuijin Zhihui Fayuan Jianshe, Kaifang Dongtai Touming Bianmin de Yangguang Sifa Jizhi Jiben Xingcheng (周强:深入推进智慧法院建设、开放动态透明便民的阳光司法机制基本形成) [Zhou Qiang: Further Promote the Construction of Smart Courts in Order to Create the Basis for an Open, Dynamic, Transparent and Convenient Judicial System], Xinhua Wang (新华网) [Xinhua Net] (Mar. 9, 2018), http://www.xinhuanet.com/politics/2018lh/2018-03/09/c_137027491.htm [https://perma.cc/M3AJ-NV2L] (stating that transparency is central to ensuring that "the people can feel fairness and justice in a visible way"). A July 2022 article in *People's Daily* issued under the byline of the SPC's Communist Party Group made the link explicit, stating that transparency "has become an important window for revealing the fairness of the Chinese judiciary, and a beautiful business card showing the self-confidence of the judicial system" ("成为展示中国司法公正的重要窗口、彰显司法制度自信的靓丽名片"). SPC Party Group, Step Forward, supra note 16.

245. Reports from the courts have repeatedly argued that CJO is the largest database of court judgments in the world and that a central goal of placing cases online is to improve the fairness of the courts and public trust in the legal system. Sun Suqing (孙溯清), Zhongguo Caipan Wenshu Wang Wenshu Zongliang Po Yiyi Fen Sifa Gongkai Guifan Sifa Xingwei Cujin Sifa Gongzheng (中国裁判文书网文书总量突破一亿份 司法公开规范司法行为促进司法公正) [The Total Number of Documents on China Judgements Online has Exceeded 100 Million—Judicial Openness Has Standardized Judicial Behavior and Promoted Judicial Fairness], Renmin Fayuan Xinwen Chuanmei Zongshe (人民法院新闻传媒总社) [News & Media Ctr. of the People's Cts.] (Sept. 1, 2020), https://www.court.gov.cn/zixun-xiangqing-251141.html [https://perma.cc/A5NQ-7XQQ] (citing the number of new cases and user visits as demonstrating the centrality of transparency in boosting efforts to build a fair legal system); see also Dong Jingling (董金玲), Zuigao Fayuan Juban Caipan Wenshu Gongkai Xiangguan Qingkuang Fabu Hui (最高法院举办裁判文书公开相关情况发布会) [The Supreme People's Court Holds Press Conference on the Situation of the Disclosure of Judgment Documents], Guowuy uan Xinwen Bangongshi Wangzhan (国务院新闻办公室网站) [State Council Info. Off. Website] (Aug. 30, 2016), http://www.scio.gov.cn/xwfbh/gfgjxwfbh/xwfbh/44193/Document/1691824/1691824.htm [https://perma.cc/4JPX-5NHT] (citing the number of cases made public as evidence that courts were accepting supervision from all parts of society and that "the masses feel fairness and justice in every judicial case"); Luo Shuzhen (罗书臻), Zhongguo Caipan Wenshu Wang Fangwen Zongliang jin 125 Yi Ci (中国裁判文书网访问总量近 125 亿次) [Total Number of Visits to China Judgements Online Approaches 12.5 Billion], Zhongguo Fayuan Wang (中国法院网) [China Ct. Net] (Jan. 2, 2018), https://www.chinacourt.org/article/detail/2018/01/id/3144727.html [https://perma.cc/7KTT-DYQ2] (reporting that the total number of user visits had exceeded 12.5 billion and that this represented a "new step for the world's largest case publication platform," with more than 1.8 billion visits coming from outside China); Yu Ziping (于子平), Yong Sifa Gongkai Cujin Sifa Gongzheng (用司法公开促进司法公正) [Use Judicial Openness to Promote Judicial Justice], Renmin Ribao (人民日报) [People's Daily] (Sept. 10, 2020), https://www.court.gov.cn/zixun-

online has allowed the courts to claim credit for dramatically increasing public information about the courts. Focusing on the total number of cases made public, as well as the billions of visits to the website, has also allowed the courts to claim international leadership in such efforts.[246] The fact that significant numbers of cases are never made public, or are deleted, is less important than the volume that is made public.[247] Transparency is a narrative as well as an outcome. Reforming and maintaining the courts' image becomes as important as other more specific court reform efforts, and publishing cases online and deleting selected cases are both mechanisms for boosting court legitimacy.[248] The goal of curbing judicial misconduct is served by the fact that any case could be made public, even if some cases never become public or are removed from view.[249] This shift to focusing on total numbers rather than individual cases serves not just to obscure the examination of individual cases but also

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xiangqing-254391.html [https://perma.cc/Q6FK-SRVJ] (stating that the more transparent courts are, the more authoritative and trusted they will be).

246. Although Chinese courts' focus on the total number made public is unusual, there are resonances with how the U.S. Supreme Court uses low-salience cases to build public trust. Frederick Schauer, Foreword: The Court's Agenda—and the Nation's, 120 Harv. L. Rev. 4, 58 (2005).

247. The limited role of precedent in the Chinese legal system also may lessen any potential downsides from not making cases public or deleting already-public cases. On precedent in China, see generally Benjamin L. Liebman & Tim Wu, China's Network Justice, 8 Chi. J. Int'l L. 257, 289 (2007) (discussing China's civil law system in which higher court cases and legal publications provide advice for judges but do not carry weight as precedent); Note, Chinese Common Law? Guiding Cases and Judicial Reform, 129 Harv. L. Rev. 2213, 2215–17 (2016) ("In 1985, the SPC commenced its now well-established practice of publishing 'typical cases' (*dianxin anli*) in its official publication, the *Gazette of the Supreme People's Court*, alongside other guidance documents, including regulations, speeches, judicial interpretations, and replies.").

248. There is a parallel here to recent writing on performative governance and legality in China. See Iza Ding, Performative Governance, 72 World Pol. 525, 537–42 (2020) (discussing how officials in China engage in performative actions to assuage popular complaints); Alex L. Wang, Symbolic Legitimacy and Chinese Environmental Reform, 48 Env't L. 699, 726 (2018) ("State actors or opponents of regulation can . . . actively control information in ways that enhance symbolic performance. This can be done through misdirection, contradictory messaging, information overload, censorship, and control of common agents of public supervision, such as media, scholars, lawyers, and civil society actors."); Rachel Stern, Jieun Kim & Benjamin Liebman, Performing Legality: When and Why Chinese Government Leaders Show Up in Court 2, 4–9 (Aug. 2022) (on file with the *Columbia Law Review*) [hereinafter Stern et al., Performing Legality] (unpublished manuscript) (exploring how Chinese agency leaders "perform legality" when their unit is sued and they are required to attend court). David Pozen has noted the related phenomenon of "transparency theater" in the United States. Pozen, Freedom of Information, supra note 232, at 1120 (describing the Freedom of Information Act as engaging in transparency theater by failing to respond to a rise in government secrecy).

249. We make a similar argument regarding the use of artificial intelligence in China's courts: The threat of computer-assisted monitoring of judges is sufficient to change judicial behavior, regardless of the accuracy of the algorithms used. Stern et al., Automating Fairness, supra note 18, at 519–20.

to form a basis for claiming greater trust and confidence in the courts.[250] And the narrative appears to be working, if recent repetition in English-language literature of the SPC's claims to be world-leaders in transparency is any indication.[251]

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250. Doing so may also divert attention away from other potential areas of reform. This focus on numbers is not entirely new for the courts or for other parts of the Party-State. Annual court work reports are full of statistics meant to highlight court efforts to resolve disputes and to serve Party-State priorities. See, e.g., Zuigao Renmin Fayuan (最高人民法院) [Supreme People's Ct.], Zuigao Renmin Fayuan Gongzuo Baogao—2023 Nian 3 Yue 7 Ri zai Dishisi Jie Quanguo Renmin Daibiao Dahui Diyi Ci Huiyi Shang (最高人民法院工作报告——2023 年 3 月 7 日在第十四届全国人民代表大会第一次会议上) [Supreme People's Court Work Report—Delivered on March 7, 2023, at the First Session of the Fourteenth National People's Congress], Zhongguo Renda Wang (中国人大网) [Website of Nat'l People's Cong. of China] (Mar. 17, 2023), http://lianghui.people.com.cn/2023/n1/2023/0317/c452482-32646450.html [https://perma.cc/4T5M-BT2P] (citing the increase in the number of concluded criminal and commercial cases as evidence of greater safety, stability, and high-quality economic development). Within the courts, there is often focus on the percentage of positive votes the annual SPC Work Report receives in the National People's Congress, and in particular, whether the SPC's work report earns more positive votes than the report from the Supreme People's Procuratorate. See, e.g., Zuigao Renmin Fayuan Xinwenju & Renmin Fayuan Xinwen Chuanmei Zongshe (最高人民法院新闻局、人民法院新闻传媒总社) [Supreme People's Court News Bureau & People's Court News Media Group], Ganggang Zuigao Renmin Fayuan Gongzuo Baogao Zanchenglü Chuang Xingao! (刚刚、最高人民法院工作报告赞成率创新高!) [Just Now, the Approval Rate for the Supreme People's Court Work Report Has Reached a New High], Zhongguo Faguan Peixun Wang (中国法官培训网) [Chinese Jud. Training Network] (May 28, 2020), http://peixun.court.gov.cn/index.php?m=content&c=index&a=show&catid=6&id=1608 [https://perma.cc/H5ZC-NYNB] (emphasizing the approval rate of the report by the National People's Congress as a key metric of success).

251. See, e.g., Björn Ahl & Daniel Sprick, Towards Judicial Transparency in China: The New Public Access Database for Court Decisions, 32 China Info. 3, 4 (2018) ("[T]he online database is a huge innovative step through which the Party-State overtakes almost all Western liberal constitutional systems with regard to the accessibility of full-text court decisions."); Lei Chen et al., supra note 36, at 738 ("Perplexingly, China runs the largest judicial online publicity venue in the world . . . ."); Liu et al., supra note 3, at 235 ("Paradoxically, the largest public judicial online outlet in the world is run by the authoritarian government of China . . . ."); Björn Ahl, Lidong Cai & Chao Xi, Data-Driven Approaches to Studying Chinese Judicial Practice: Opportunities, Challenges, and Issues, China Rev., May 2019, at 1, 2 ("In sheer number terms, this SPC disclosure initiative justifies China's claim to have overtaken many of the 'advanced' legal systems to which it has long looked to for inspiration.").

One reason this narrative has taken hold is that most other legal systems are far less centralized, and thus are less likely to have one web portal for the entire legal system. Other systems, particularly common law systems, may also produce much less in the way of written decisions for simple cases (for example, misdemeanor convictions). In addition, few other legal systems appear focused on counting the number of documents online. In the United States, for example, there do not appear to be any recent figures listing the total number of documents posted to either PACER, the federal court database, or any state database. One report from nearly a decade ago estimated that PACER hosted more than a billion documents. John G. Roberts, Jr., 2014 Year-End Report on the Federal Judiciary 6 (2014), https://www.supremecourt.gov/publicinfo/year-end/2014year-endreport.pdf [https://perma.cc/Q3T7-MVBL].

Who is the audience for the narrative that China's courts lead the world in transparency? It is impossible to know for sure, but the courts appear to have multiple audiences for these efforts: Party-State leaders, other state actors, litigants, judges, ordinary people, and international observers. The SPC's efforts appear to be aimed at maintaining strong relationships with other state actors, painting a generally positive picture of society, and claiming legitimacy from being transparent while managing any potential (real or imagined) downsides resulting from transparency. Some of the deletions from the CJO site reflect concerns with offending central Party-State authorities and preventing collective action. But many of the deletions go beyond these fears and suggest concern with maintaining relationships and building trust among multiple audiences, from other official actors such as the police, procuratorates, and military, to legal academics, litigants, and lawyers.

Literature on U.S. courts has explored the range of audiences for court decisions.[252] Although writing on authoritarian political systems has noted that authoritarian leaders are also accountable to domestic audiences in ways that shape their decisionmaking,[253] scholarship on courts in authoritarian systems has rarely explored the possibility that judges may have multiple audiences for their decisions. When scholars have examined the audiences for authoritarian law, they have largely done so in the context of exploring why judges dare to challenge authoritarian leaders.[254] In contrast, Chinese courts are building a narrative in which the courts' collective efforts serve the interests of the Party-State and support Party-State efforts to boost state legitimacy domestically and internationally.[255] Court leaders in China make explicit their view that transparency is a route to public trust and that public trust in the courts is

252. See, e.g., Lawrence Baum, Judges and Their Audiences: A Perspective on Judicial Behavior 4 (2006) (arguing that judges consider the opinions of their audience in decisionmaking).

253. See Jessica L. Weeks, Autocratic Audience Costs: Regime Type and Signaling Resolve, 62 Int'l Org. 35, 38–44 (2008) (discussing audience costs in authoritarian regimes).

254. See Yasser Kureshi, When Judges Defy Dictators: An Audience-Based Framework to Explain the Emergence of Judicial Assertiveness Against Authoritarian Regimes, 53 Compar. Pol. 233, 235–36 (2021) ("[I]nterests-based scholars cannot explain high-risk judicial activism, where the judiciary risks likely retaliation when acting assertively, but does so anyway."); see also Raul A. Sanchez Urribarri, Courts Between Democracy and Hybrid Authoritarianism: Evidence From the Venezuelan Supreme Court, 36 Law & Soc. Inquiry 854, 860 (2011) (discussing how judges in hybrid regimes may consider audiences in their decisions).

255. Most prior scholarship on the audiences for judicial decisions focuses on the actions of individual judges. But see Nuno Garoupa & Tom Ginsburg, Judicial Audiences and Reputation: Perspectives From Comparative Law, 47 Colum. J. Transnat'l L. 451, 453 (2009) (discussing the role of judiciaries' group or collective reputations with different audiences).

central to maintaining stability, economic development, and the leadership of the Communist Party.[256]

China is not alone in this effort at creating a narrative about its court system. Judicial mythmaking is common across a range of systems.[257] But this focus represents a shift for a court system that was historically seen as a laggard internationally.[258] Today, China's courts seek areas in which they can claim international primacy and, in so doing, support China's claim to global leadership.[259]

Might this effort result in increased judicial authority? The growth and curation of the CJO website suggest that judicial authority may be the product not just of how much space an authoritarian state permits for its courts or what courts do in individual cases but also of how courts manage information and construct a narrative about their performance. Whether this is true empirically is a topic for future scholarship. We have no way at present of measuring whether the SPC's efforts to construct a narrative about the courts are working—whether confidence in the courts is increasing among the public or the Party-State. Likewise, we have few measures for whether China's traditionally weak courts can exert more influence within the political–legal system, although there are some signs that the challenges courts face in enforcing their decisions have lessened

256. See Hou Yusheng (侯裕盛), Zhou Qiang: Yi Tigao Sifa Gongxinli wei Genben Chidu Tuijin Sigai (周强：以提高司法公信力为根本尺度推进司改) [Zhou Qiang: Making Public Confidence in the Judiciary the Basic Measure for Advancing Judicial Reform], Renmin Fayuan Bao (人民法院报) [People's Ct. News] (June 24, 2015), https://www.court.gov.cn/zixun-xiangqing-14786.html [https://perma.cc/7JXS-J3NP] (stating that the credibility of the judiciary influences the stability and power of the Party-State and that judicial transparency increases public confidence in the judiciary).

257. See Laurence H. Tribe, Politicians in Robes, N.Y. Rev. Books (Mar. 12, 2022) (book review), https://www.nybooks.com/articles/2022/03/10/politicians-in-robes-justice-breyer-tribe/ (on file with the *Columbia Law Review*) (critiquing the myth of American judges as apolitical actors); see also Staton, supra note 8, at 16 (noting public relations efforts of the Mexican courts); Pratap Bhanu Mehta, The Indian Supreme Court and the Art of Democratic Positioning, *in* Unstable Constitutionalism: Law and Politics in South Asia 233, 234 (Mark Tushnet & Madhav Khosla eds., 2015) (noting Indian courts' efforts to position themselves and adjust the basis for their legitimacy "in an ongoing democratic discourse" in which judicial myths "seem, for the most part to be dead").

258. See Randall Peerenboom, What Have We Learned About Law and Development? Describing, Predicting, and Assessing Legal Reforms in China, 27 Mich. J. Int'l L. 823, 827 n.14 (2006) ("Turn of the century legal and political reforms were often described in terms of an 'impact-response' model . . . . [This reflects] the notion that China's turn of the century reforms were driven by the sudden realization that China lagged behind Western states in . . . legal-political matters[,] [which] was too simple."); see also Liebman, Authoritarian Justice in China, supra note 23, at 226 (describing how scholarship on Chinese law has shifted from comparison to the West to recognition of the Chinese legal system as a distinct paradigm).

259. See Mark Jia, Special Courts, Global China, 62 Va. J. Int'l L. 559, 621 (2022) (discussing the role of the recent court reform in furthering China's global ambitions).

in recent years.[260] Yet the significance of courts' transparency efforts lies not just in measurable outcomes but in the fact that court leadership views constructing this narrative as important to its legitimacy. How the courts manage information after it is released may be a complementary source of authority to what courts decide.

Recognizing that courts may build authority beyond how they decide cases suggests the need for future research on authoritarian legal systems to move beyond its traditional focus on whether courts merely serve as tools of social control or can carve out areas of autonomy in which they push back against the state.[261] Similarly, researchers may wish to expand

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260. See Zuigao Renmin Fayuan (最高人民法院) [Supreme People's Ct.], Zuigao Renmin Fayuan Guanyu Renmin Fayuan Jiejue "Zhixing Nan" Gongzuo Qingkuang de Baogao—2018 Nian 10 Yue 24 Ri Zai Dishisan Jie Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui Diliu Ci Huiyi Shang (最高人民法院关于人民法院解决"执行难"工作情况的报告——2018 年 10 月 24 日在第十三届全国人民代表大会常务委员会第六次会议上) [Supreme People's Court Report on the Work of the People's Courts in Resolving "Difficulty in Enforcement"—Delivered on October 24, 2018, at the Sixth Session of the Standing Committee of the Thirteenth National People's Congress], Zhongguo Renda Wang (中国人大网) [Website of Nat'l People's Cong. of China] (Oct. 24, 2018), http://www.npc.gov.cn/zgrdw/npc/xinwen/2018-10/24/content_2063597.htm [https://perma.cc/B8TS-6GHG].

261. For overviews of the literature on authoritarian courts, see Ginsburg & Moustafa, supra note 5, at 1–22 (describing the functions of courts in authoritarian regimes and how these regimes control the courts); Kathryn Hendley, Legal Dualism as a Framework for Analyzing the Role of Law Under Authoritarianism, 18 Ann. Rev. L. & Soc. Sci. 211, 218–21 (2022) (summarizing various approaches to analyzing the role of the law under authoritarianism); Solomon, supra note 12, at 123 ("Underlying all of [the discussed books and studies] and the study of courts in authoritarian states more generally, is a basic dilemma—the idea of empowered judges does not fit with the classic understanding of authoritarianism."). On the purposes of law and courts in China in particular, see generally Xin He, The Politics of Courts in China, 2 China L. & Soc'y Rev. 129 (2017) (surveying the literature on the relationship between Chinese courts and politics). On judicial innovation in authoritarian states, see generally id. at 139 ("Because of political ambivalence, judicial innovation is also cautious and constrained [in Chinese courts]."); Moustafa, supra note 3, at 282 (providing a "roadmap to the new literature on law and courts in authoritarian regimes"). There are exceptions to this framing in work on China's courts, with scholars examining the roles courts play beyond the courtroom. See generally Benjamin L. Liebman, A Populist Threat to China's Courts?, *in* Chinese Justice: Civil Dispute Resolution in Contemporary China 269 (Margaret Y.K. Woo & Mary E. Gallagher eds., 2011) ("Western literature has devoted extensive attention to the problems in the Chinese legal system . . . from corruption to lack of competence to continued Communist Party intervention . . . . I examine another possibility: that one impediment . . . is that courts are too responsive to protests, petitions, and public opinion."); Yang Su & Xin He, Street as Courtroom: State Accommodation of Labor Protest in South China, 44 L. & Soc'y Rev. 157, 182 (2010) ("[W]hen the workers cannot vindicate . . . substantive rights through the established institutional channels, the state, afraid of losing control, is extremely uncomfortable enshrining the rights of strike, association, and demonstration. With maintaining social stability as the most serious concern, the state has to accommodate many such labor protests.").

Recent scholarship on administrative litigation in China has also challenged the citizen-versus-state framework that has dominated analyses of why and when lawsuits are brought against the state in China. See, e.g., Liebman et al., supra note 13, at 179, 190–91

the focus of writing on court legitimacy in authoritarian states from the traditional focus on outcomes in individual cases to how court narratives may shape public perceptions. This reminder to look beyond case decisions in assessing the roles and authority of courts is particularly important at a moment when CJO has generated an explosion of research focused on Chinese court decisions and when qualitative work in China remains difficult.

Chinese courts' efforts to manage information about court decisions are largely consistent with Party-State efforts to build new narratives, both within and outside of China.[262] Courts' efforts serve to hide social ills, stake a claim to being a world leader, and perhaps rebrand Chinese society. Courts are using new forms of data not just as a tool of surveillance and control but to mold an image of society and institutions within society. They are playing a collaborative role, not seeking new authority or to challenge other institutions. But courts are unlikely to be the only institutions curating data to boost their image. The potential for conflict between the courts and other institutions may grow as more information becomes public.[263] Already, we are seeing signs of retreat from transparency in the courts. The degree to which the courts move away from such policies may indicate changes in court leadership and a growing emphasis on data security. It may also suggest significant pushback against judicial transparency from both other Party-State institutions and from many within the court system, for whom publishing cases online adds both work and a greater risk of being criticized for their decisions.[264]

Yet to view CJO solely as an example of authoritarian spin would also be a mistake: The goal is managed information, not misinformation. CJO is also changing the practice of law in China in fundamental ways, from increased reliance on case research by lawyers and judges, to increased attention to consistency in how similar cases are adjudicated both across

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(reporting data suggesting that "a large proportion of administrative lawsuits are private disputes in which litigants are trying to leverage the power and authority of state agencies, rather than efforts to challenge or constrain officials"). But recent writing on Chinese courts has also returned repeatedly to the question of whether China is creating a "dual state," with courts able to carve out areas of autonomy in their decisions. For one recent example, see Hualing Fu, Duality and China's Struggle for Legal Autonomy, 116 China Persps., no. 1, 2019, at 3, 6 (arguing that duality allows autonomy to some extent in private law).

262. See supra note 16 and accompanying text.

263. To date we have seen little evidence of such conflict, other than the removal of categories of cases involving the police and military from CJO. See supra notes 168–173 and accompanying text. In Shanghai, courts' use of artificial intelligence to track evidence submissions has reportedly led to pushback from procuratorates and the police. Stern et al., Automating Fairness, supra note 18, at 540–42. The idea that authoritarian institutions may compete with each other is not novel, and the proliferation of data management as a source of authority seems likely to accelerate such dynamics. See id. at 540–43 ("[T]echnology that makes things easier for one state agency may create problems for others. Resistance from other agencies can also exacerbate the problem of data silos, where each agency builds a stand-alone data system with little data-sharing or coordination across the Party-State.").

264. See supra notes 185–186 and accompanying text.

China and within individual courts, to fostering the development of a nascent (and still controlled) market for legal information.[265] CJO is transforming legal scholarship in China and internationally, as scholars use CJO data as a tool of discovery and for a wide range of quantitative studies of the Chinese legal system.

CONCLUSION

China's embrace of judicial transparency fits into an emerging global conversation on how the proliferation of technology and data is transforming authoritarian governance. A growing body of research has focused on the centrality of information to twenty-first-century authoritarian rule.[266] One insight that follows from our study is that the management of information and data is also central to the role courts play in such systems. Courts need at least some transparency to support their claim to authority and carefully curate their image. Another insight is that the way institutions shape narratives regarding their behavior may be an important determinant not just of public trust or confidence but of their relationships with other state institutions. Authoritarian states are engaged in multiple overlapping (and perhaps competing) efforts to shape narratives using information management. Understanding this dynamic of multiple information managers may also shed light on how information politics shapes institutional relationships.

Our findings are also relevant to emerging conversations about the importance of judicial data beyond the authoritarian context. China's embrace and management of judicial information disclosure are the product of China's system of information management, and the sensitivities revealed may be unique to China. But questions regarding how the rapid proliferation of court data relates to issues such as the privacy of litigants, copycat crimes, national security, and institutional interests—as well as who is able to use judicial data, for what purposes, and for how long—cut across regime type. Courts from many jurisdictions, including Canada,[267] France,[268] and the

265. See supra notes 16–18 and accompanying text.

266. See supra note 79 and accompanying text.

267. See Jo Sherman, Canadian Jud. Council, Guidelines for Canadian Courts: Management of Requests for Bulk Access to Court Information by Commercial Entities (2021), https://cjc-ccm.ca/sites/default/files/documents/2021/Bulk%20Access%20to%20Court%20Info%20-%20Guidelines%202020-12_EN%20Final%20-%20One%20PDF.pdf [https://perma.cc/9C99-STAX] (recommending, among other things, that courts maintain registries of approved requesters, develop bulk data request applications, and categorize documents by type to determine whether bulk access is appropriate).

268. See Loïc Cadiet, Ministère de la Justice [Ministry of Just.], L'Open Data des Décisions de Justice: Mission d'Étude et de Préfiguration sur l'Ouverture au Public des Décisions de Justice [The Open Data of Court Decisions: Study and Preparation Mission for Opening Judicial Decisions to the Public] 26–27 (2017), https://www.justice.gouv.fr/sites/default/files/migrations/portail/publication/open_data_rapport.pdf [https://perma.cc/7Y8B-CHJQ] (discussing how to release court decisions to the public while protecting the privacy of individuals); Ministère de la Justice [Ministry of Just.], Rapport du Cycle d'Ateliers sur l'Éthique de la Réutilisation des Décisions de Justice [Report on the Series of Workshops

United Kingdom,[269] are confronting issues ranging from whether to permit scraping of court data, to how much personal information should be disclosed in public court opinions, to how to protect commercial trade secrets,[270] to how to maintain state secrets.[271] Courts everywhere face a radically changing information management landscape. What is made public is important. What happens after information enters the public domain may likewise be central to shaping the role courts play and to judicial authority in a range of legal systems.

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on the Ethics of the Reuse of Court Decisions] 23–25 (2022), https://www.courdecassation.fr/files/files/Relations%20institutionnelles/Minist%C3%A8re%20de%20la%20justice/Ethique%20de%20r%C3%A9utilisation%20des%20d%C3%A9cisions%20de%20justice/Rapport_Ethique_r%C3%A9utilisation_d%C3%A9cisions_justice.pdf [https://perma.cc/2KQA-9DQN] (discussing how and whether to regulate data reuse).

269. See Cape Intermediate Holdings v. Dring [2019] UKSC 38, [2020] AC 629 [34]–[37] (appeal taken from Eng.) (discussing third-party access to litigation information); Khuja v. Times Newspapers Ltd. [2017] UKSC 49 [12]–[15], [2019] AC 161 [173]–[175] (appeal taken from Eng.) (addressing balance between public access to the courts and privacy rights).

270. For a recent discussion of how the European Court of Justice has addressed this issue in light of the General Data Protection Regulation of the European Union, see Peter Oliver, Anonymity in CJEU Cases: The Court Changes Its Approach, EU L. Analysis (Jan. 23, 2023), http://eulawanalysis.blogspot.com/2023/01/ [https://perma.cc/4665-RYN8].

271. *Khuja*, [2019] AC at [14].