

# Judicial Legitimation in China

- Legitimation, occurring through:
  1. Acceptance, conformance to a decision perceived to be dubious or even wrong
  2. Persuasion, a change in attitude
    - a. The judicial imprimatur convinces citizens of the correctness or rightness of the policy being endorsed
    - b. Occur through elaborative or non-elaborative process of information
      1. Elaborative: systematically considering all the arguments presented for and against it
      2. Non- elaborative: relying on heuristics such as source-credibility
    - c. Credibility is an important aspect of persuasiveness
      1. A combination of expertise and trustworthiness
      2. Two stylized facts
        - a. China has historically enjoyed a relatively elevated level of trust from its citizens.
        - b. Central institutions are more trusted than local ones
  
- The survey experiment
  - I. Assumption towards judicial legitimation:
    - A. Although courts may have the ability to change attitudes, they are unlikely to be more successful than other governmental entities in doing so.
  - II. Design
    - A. Three factors of treatment conditions
      1. Type of institution
        - a. Judicial
        - b. Administrative
      2. Level of institution
        - a. National
        - b. Municipal
      3. Presence of a counter-argument
        - a. Counterargument
        - b. No counterargument
    - B. Two control conditions
      1. Attributed to a non-regulatory entity
      2. One condition featured a counterargument while the other did not.
    - C. Two scenarios
      1. Marital rape

Treatment condition	Court	Public security agency
National		
Municipal		

Counterargument: 1-Chinese Women's Federation

Control condition: 1-prominent lawyer

Questions asked:

- 1) If interviewees support, oppose, or neither support nor oppose the criminalization of marital rape;
  - 2) The degree of their support for or opposition to the policy as registered on a scale of one to four.
2. Freedom of speech (having ideological freight)

Treatment condition	Court	PPRFT agency
National		
Municipal		

Counterargument: 2-a professor of humanities

Control condition: 2-Xinhua News Agency

Questions asked:

- 1) If interviewees support, oppose, or neither support nor oppose legal liability for essays that question the veracity of heroic deeds;
- 2) The degree of their support for or opposition to the policy as registered on a scale of one to four.

D. Sample characteristics

1. 806 university students
2. Two indicators
  - a. Male - Gender
  - b. Sophistication - Level of legal and political knowledge

III. Conclusions

- A. Chinese judicial and administrative institutions and administrative institutions can legitimize policy but only if the issues or arguments are non-ideological in nature.
- B. Courts do not seem to be more persuasive than other government institutions.

● Implications

- A. Chinese courts are unlikely to openly deny other state organs, nor are they likely to assert themselves against the ruling party.
- B. This also helps explain why courts are precluded from constitutional review in China.
- C. Public interest litigation have the potential to captivate public support.