

Courting Modernity: Mapping Revolution, Law, and the State in 20th Century China

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Background

Scholars are increasingly turning to legal history to illuminate the social and cultural practices of 20th century China. Yet, astonishingly, their work is taking place with only a weak grasp of the institutional condition and dynamics of the Chinese legal system, which makes the data they analyze and the conclusions they reach difficult to appraise. These weak empirical foundations also inhibit efforts to test the conventions of received historiography, especially as it pertains to any debts the PRC legal system may owe to Republican China, and to our understanding of the context and concrete legacies of the 1949 revolution.

Description

Judicial modernization implicates state-building, knowledge diffusion, and social change.

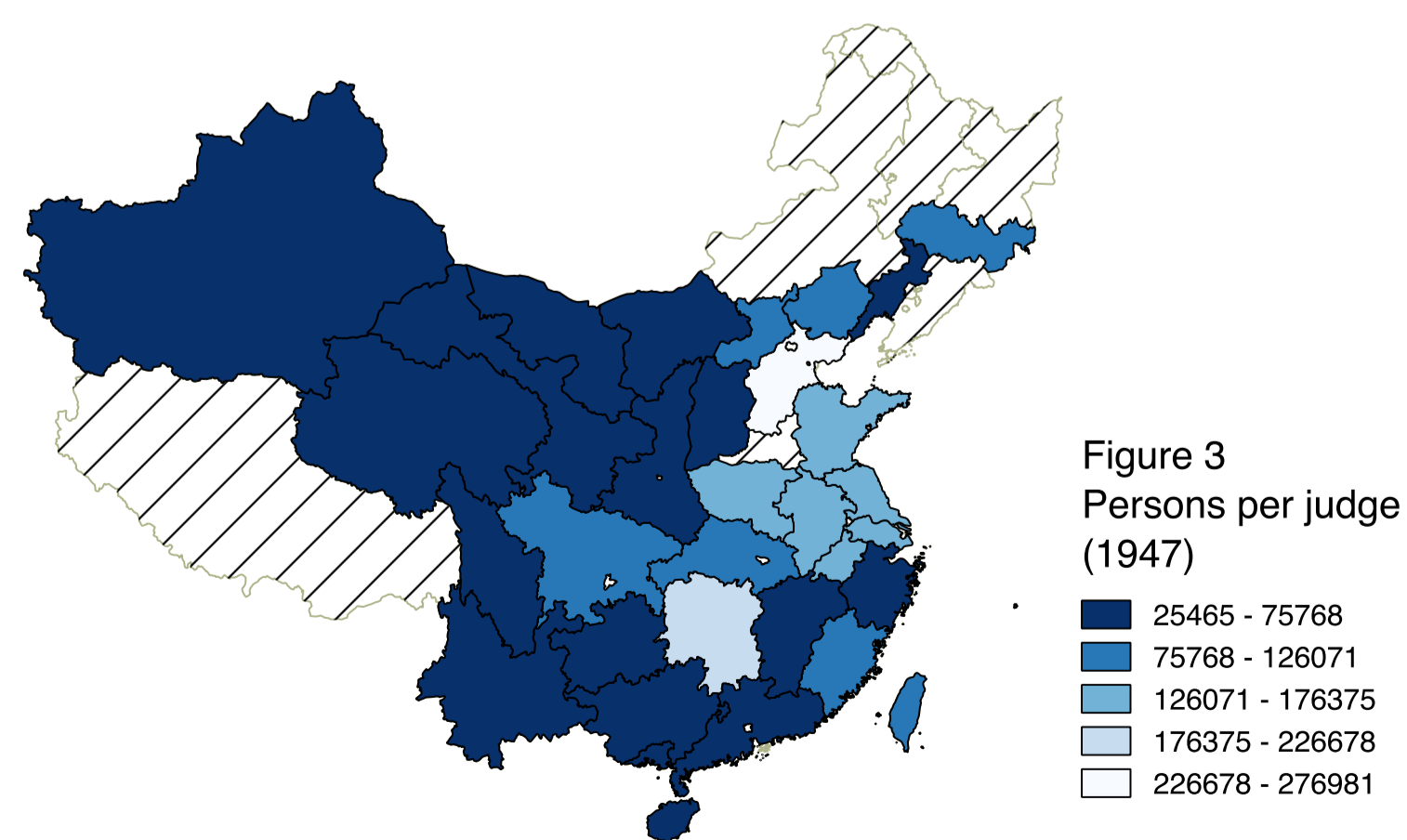
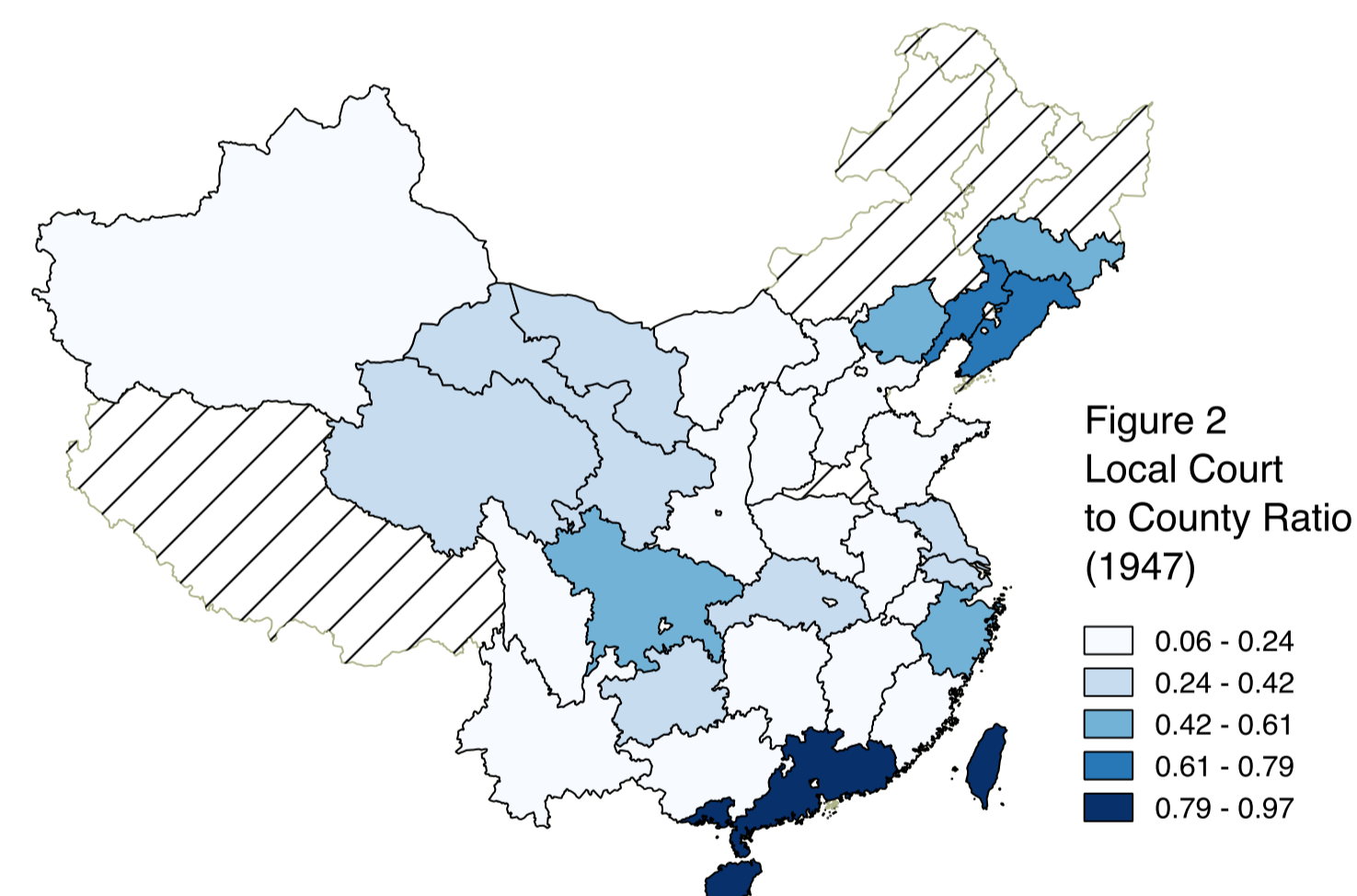
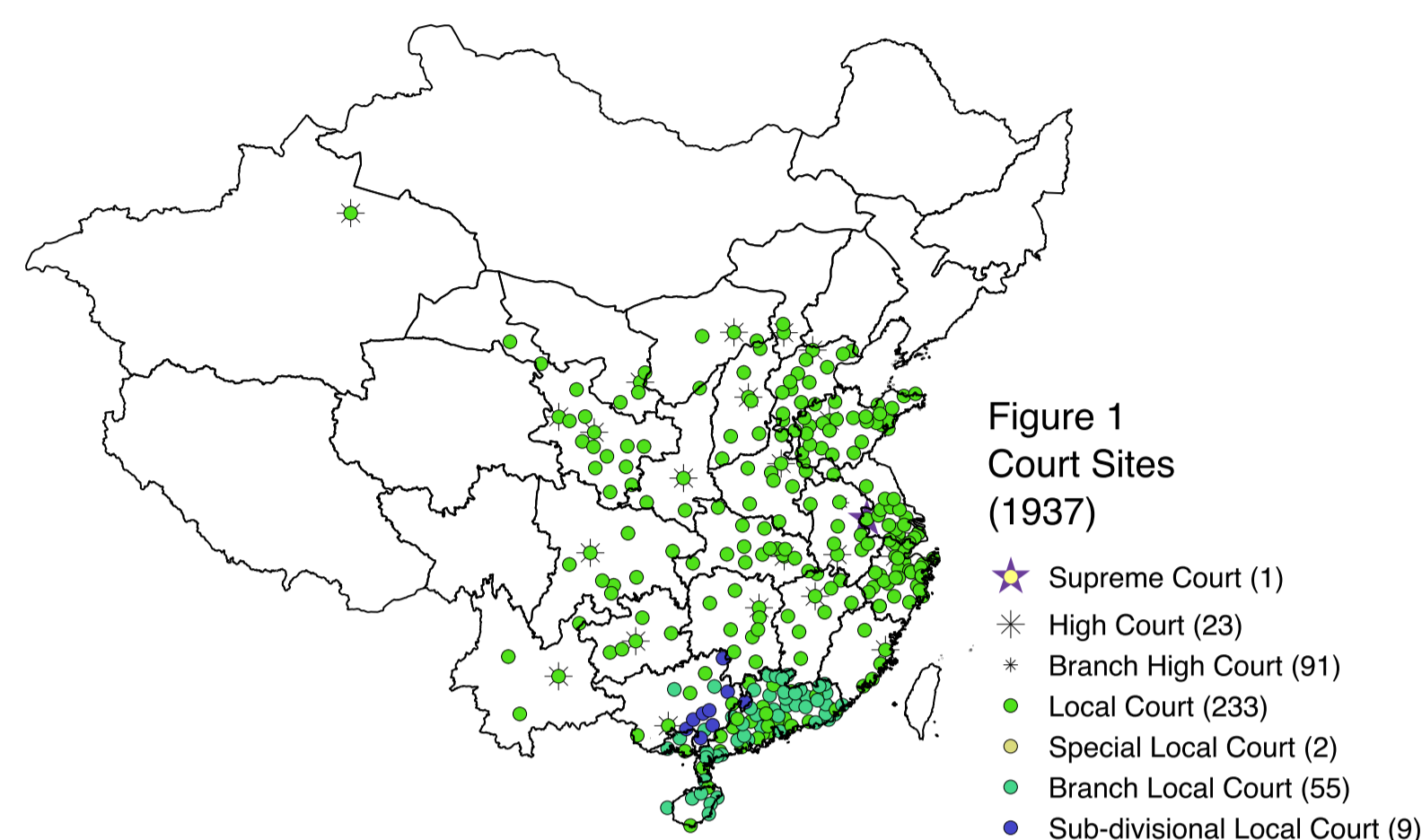
This project maps its neglected institutional dynamics across the Nationalist period, revealing hidden insights into the changing scale and spatial distribution of judicial resources over time, and the condition of the overall judicial system on the eve of its passage into the PRC and into CCP control.

The goal is to specify detailed empirical baselines against which to assess the subsequent trajectory of the judicial system under CCP stewardship, and to better understand the concrete inheritance judicial officials in the PRC confronted as they formulated policy.

This research furnishes a launching pad for a more ambitious monograph-length study of the birth of the PRC judicial system that critically re-examines the 1949 revolution and some of the key ontological categories that structure the historiography of modern China.

Sources & Methods

The raw data for this project was cross-referenced among domestic and foreign publications issued between 1926 and 1948, including official statistical abstracts, judicial yearbooks, and non-governmental almanacs. In Figure 1, court sites were georeferenced in both CHGIS and geocoding.jp. In Figures 2 & 3, jurisdictions with no data reported are shaded. All maps were generated in QGIS 2.14.2.



Findings

1) Prior to the Second Sino-Japanese War, the institutional development of the Chinese judicial system was highly skewed in favor of the towns and cities in the vicinity of major treaty ports, especially along the Yellow, Yangzi and Pearl rivers. Elsewhere there were comparatively few proper courts, which indicates that Republican judicial modernization up to that point was a spatially constrained, localized phenomenon centered around the political and economic heartland of the Nationalist government, and therefore reached the vast majority of Chinese incompletely, if at all. (Figure 1)

2) During the war, the retreat of the Nationalist government to Chongqing shifted the focus of judicial institution building west, significantly ameliorating the judicial under-development of the interior, especially Sichuan province.

3) Nevertheless, with the exception of Guangdong province, in 1947 the only provinces with court-to-county ratios exceeding 50% had previously been under direct Japanese occupation (e.g. Rehe, Liaoning and Taiwan). (Figure 2)

4) Despite 40 years of judicial modernization and an ambitious post-war program of judicial reconstruction, in 1947 half of Chinese provinces had court-to-county ratios of less than 25%. The densely populated provinces of the North China plain, where the CCP insurgency was strongest, were especially under-served. Hebei, home to Beijing, the PRC capital, was the worst performing province in the country, with only one judge for every 270,000 people, and eight local courts among 130 counties. (Figures 2 & 3)

Conclusions

The Nationalist state suffered from profound incapacity and structural imbalances as revealed by the spatial distribution of its judicial resources. This distribution offers a gauge of the relative success of modern state-building across Republican China at a glance.

Acute incapacity delegitimized Nationalist models of judicial modernization, and had a decisive impact on the formation of CCP legal policy in the base areas (e.g. the privileging of informal mediation).

The questions of how best to alleviate inherited structural imbalances left over from the Nationalist regime, and how to complete the unfinished business of judicial construction subsequently hung like a shadow over judicial policy in the Mao-era PRC, and sparked fierce ideological conflict.

Furthermore, the findings documented here also prompt reservations about the typicality of many of the phenomena captured in judicial records from the Republican era, and therefore raise potentially serious methodological questions for those who seek to describe Republican social, legal, and cultural history primarily through judicial archives.