

Does “Pure Legality” Produce Political Legitimacy? An Experimental Approach

Yiqin Fu, Yiqing Xu, Taisu Zhang

Motivation

- “Pure legality” is a different concept than “rule of law” or “rule by law,” falling somewhere in the middle of the two.
- It does not necessarily produce substantive freedoms or even positive economic outcomes (although it tends to be connected with the latter).
- Most political scientists and legal scholars are skeptical of the idea that “pure legality” can produce meaningful amounts of political legitimacy.
- Instead, they tend to think that law is politically beneficial only when it produces other substantive outcomes (more freedom, better rights, stronger growth, etc.).

Political Background

- Since around 2014, China has invested heavily in “pure legality,” but not in substantive political freedoms or rights. Economic performance, too, has slowed or even begun to decline.
- There seems to be some thinking among policymakers that legality in and of itself can be a major source of political legitimacy, even when it is not obviously connected to better substantive outcomes (social, political, or economic).
- This begs the question: are they right?

Preexisting Empirical Research

- Research conducted in American settings (e.g., Tom Tyler's research, and its many follow-ups) tends to be skeptical that pure legality is sociopolitically beneficial to states, arguing instead that some version of "procedural justice" is much more important.
- In fact, the former has been found to be statistically insignificant in a number of surveys (Tyler 2017).
- In the Chinese case, there has not yet been a thorough attempt to differentiate the political effects of "pure legality," despite robust research on the legitimacy-enhancing effects of legal reform in general (e.g., Whiting 2017).

Our Aims

- We seek to tease out, through a survey experiment, the legitimacy enhancing effects (if any) of pure legality “for its own sake.”
- As opposed to several other possible mechanisms:
 - Enhancement of substantive freedoms and rights;
 - Enhancement of checks and balances against state power;
 - Enhancement of the predictability of state action;
 - Enhancement of “procedural justice,” defined mainly as respectful responsiveness (by law enforcement) to citizens’ requests of explanation and engagement.
- Our results are limited to the Chinese context.

Our Research Design

- We constructed a factorial survey experiment in which respondents read fictional fact patterns, and then gave their assessments (measured in “trust”) of law enforcement in those patterns.
- We strip out any possible interfering effect of “substantive rights and freedoms” by focusing on (fictional) legal changes that attempt to restrict private rights and freedoms: Internet censorship, media censorship, street vendor regulations, and restrictions on private fireworks use.
- None of these fact patterns yields a reasonable interpretation of the state limiting its own political power through law.
- The other mechanisms correlate to variable language conditions (“issuance,” “training,” “publication,” “response”) within the fact patterns.

An Example (1/2)

- [In 2016, Country W's media regulator issued a legal document titled "Further Regulations to Supervise Television Content", introducing 20 content moderation standards for online television series.] **(The Issuance Condition)**
The authorities asked all online media platforms to fulfill their duties of reviewing online television series, promoting "positive" values, and removing negative content that harms public morals.
- [The media regulator published the document in full on government portals.] **(The Publication Condition)** S, a streaming platform, immediately held internal seminars on "purifying the online media environment and protecting public morals," asking its employees to strictly follow the standards set by the document when reviewing existing television series on the platform.

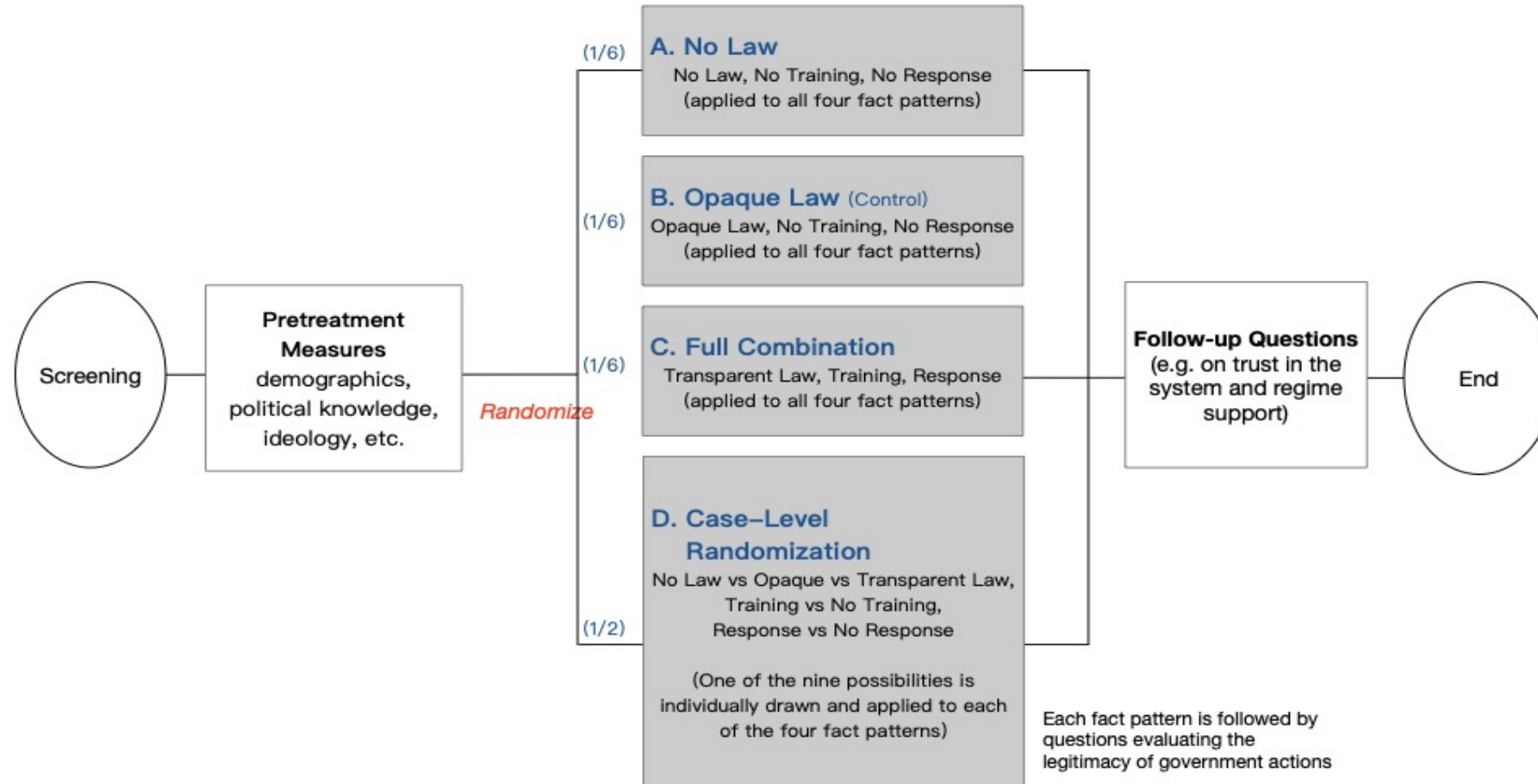
An Example (2/2)

- [After publishing the regulations, Country W's media regulator also held training sessions, explaining to employees at the online platforms what each standard of the new regulation entailed. Content reviewers at Platform S all participated in the training and passed the national examination held that year on content moderation.] (**The Training Condition**)
- In 2017, The Critical Point, a popular online television series imported from South Korea, was removed from Platform W. Mr. Zhang had been greatly looking forward to seeing The Critical Point. When he saw that the series was removed from Platform C, he asked the platform for an explanation. [Platform C wrote to him that The Critical Point violated the regulation's statute on the total amount of screen time allowed for "violent and vulgar" content.] (**The Response Condition**)
- That year, Platform C removed 20 television series in total, accounting for 10% of all television series on the platform. Several market research surveys show that 80% of users were satisfied with Platform W.

Core Intuitions

- Legality depends on two conditions: the issuance of formal rules *and* their reliable enforcement. Investment in both (issuance and training) may enhance legitimacy (“trust”) if the public values legality for its own sake.
- If the public values legality because it enhances the predictability of state action, then it will respond especially positively both to the publication of legal rules *and* their reliable enforcement (publication and training).
- If the public values procedural justice, then it will respond positively to greater responsiveness (response) to citizens’ concerns and requests for explanation (e.g., Tyler and Meares).

Survey Flow Chart



Treatment Distribution

Table 3. Treatment Conditions for Fact Patterns: A Factorial Design

Arm	Variation	Law?	Publication?	Training?	Response?
A ($\frac{1}{6}$)	0				
B ($\frac{1}{6}$)	1	Y			
C ($\frac{1}{6}$)	8	Y	Y	Y	Y
	0				
	1	Y			
	2	Y	Y		
	3	Y		Y	
D ($\frac{1}{2}$)	4	Y	Y	Y	
	5	Y			Y
	6	Y	Y		Y
	7	Y		Y	Y
	8	Y	Y	Y	Y

Summary Statistics

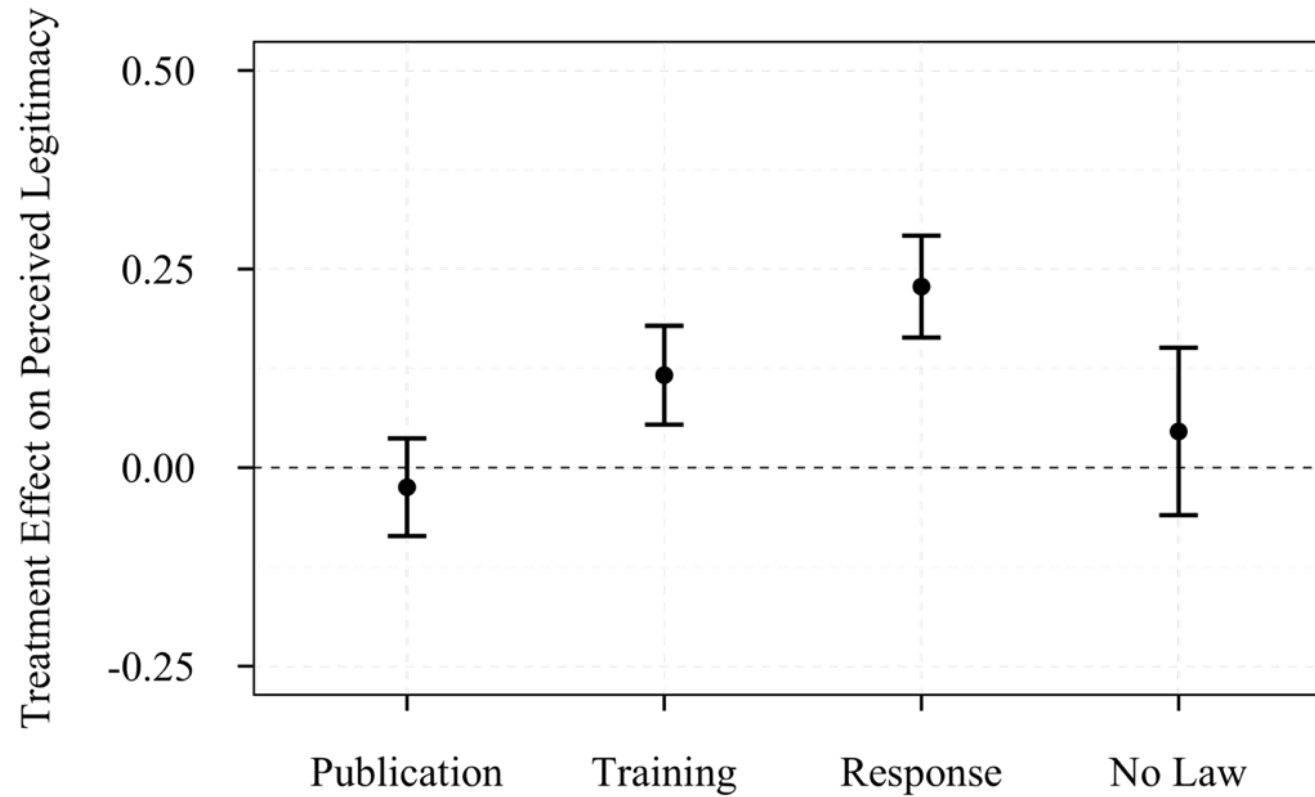
Table 5. Summary Statistics: Main Sample

	Summary Statistics				
	Obs	Mean	Std. Dev.	Max	Min
Age	1,040	37.44	12.12	61	19
Female	1,040	0.51	0.50	1	0
High School	1,040	0.14	0.34	1	0
Junior College	1,040	0.24	0.43	1	0
College or Above	1,040	0.20	0.40	1	0
Income Category	1,030	3.77	1.85	8	0
Self-Reported Social Class	1,040	1.26	0.70	3	0
Political Knowledge	1,040	2.62	1.90	5	0
Ethnic Minority	1,040	0.04	0.19	1	0
CCP Member	1,040	0.10	0.30	1	0
Ideology: Legality	1,040	0.00	1.00	2.87	-3.18
Ideology: Nationalism	1,040	0.00	1.00	2.27	-4.49
Ideology: Liberalism	1,040	0.00	1.00	4.18	-3.59
Ideology: Market Economy	1,040	0.00	1.00	3.88	-3.95
Regime Support	1,040	0.00	1.00	2.28	-4.74

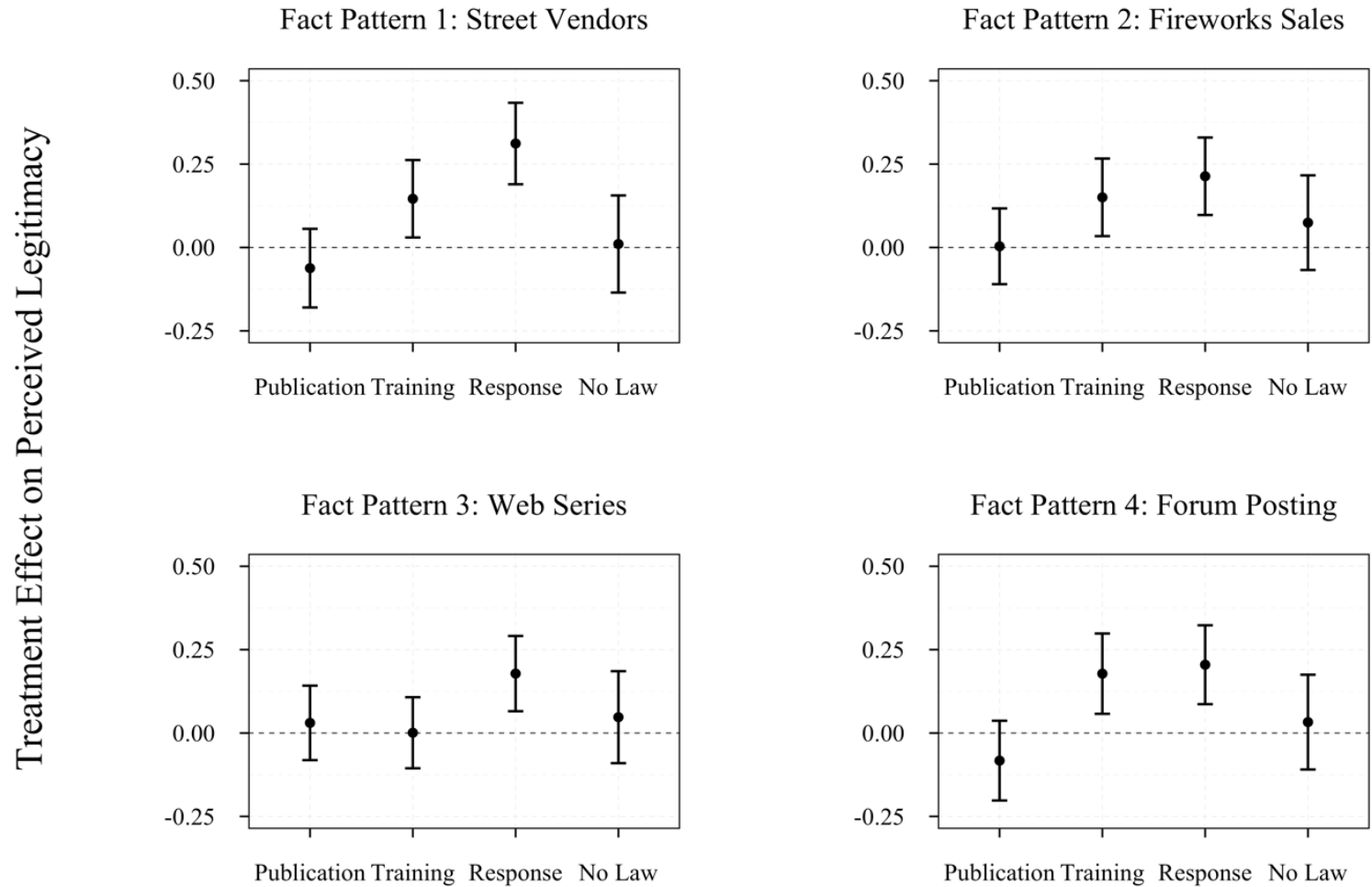
Basic Results

- Of the four legal treatments deemed theoretically important (the issuance of law, the publication of law, training of enforcement officials, and responsiveness) both training and responsiveness increased the perceived legitimacy of enforcement action.
- In contrast, neither the issuance of formal laws and rules nor their publication had any significant effect.
- These findings hold true across all four fact patterns.

Basic Finding: Specific Support



Specific Support by Fact Pattern



Interpretations

- Survey respondents rewarded investments in “pure legality” (as captured by the professional training treatment) with higher levels of perceived legitimacy even when, as in all four patterns, it was employed to reduce private rights and freedoms, and even when it did not constrain the regime’s aggregate exercise of political power.
- Issuance of laws and rules did not seem to independently matter.
- Procedural justice (as measured by responsiveness) mattered even more than pure legality (0.3 SD compared to 0.15 SD boost).
- Surprisingly, the publication of rules did not further boost legitimacy and trust relative to any baseline, even when training occurred.

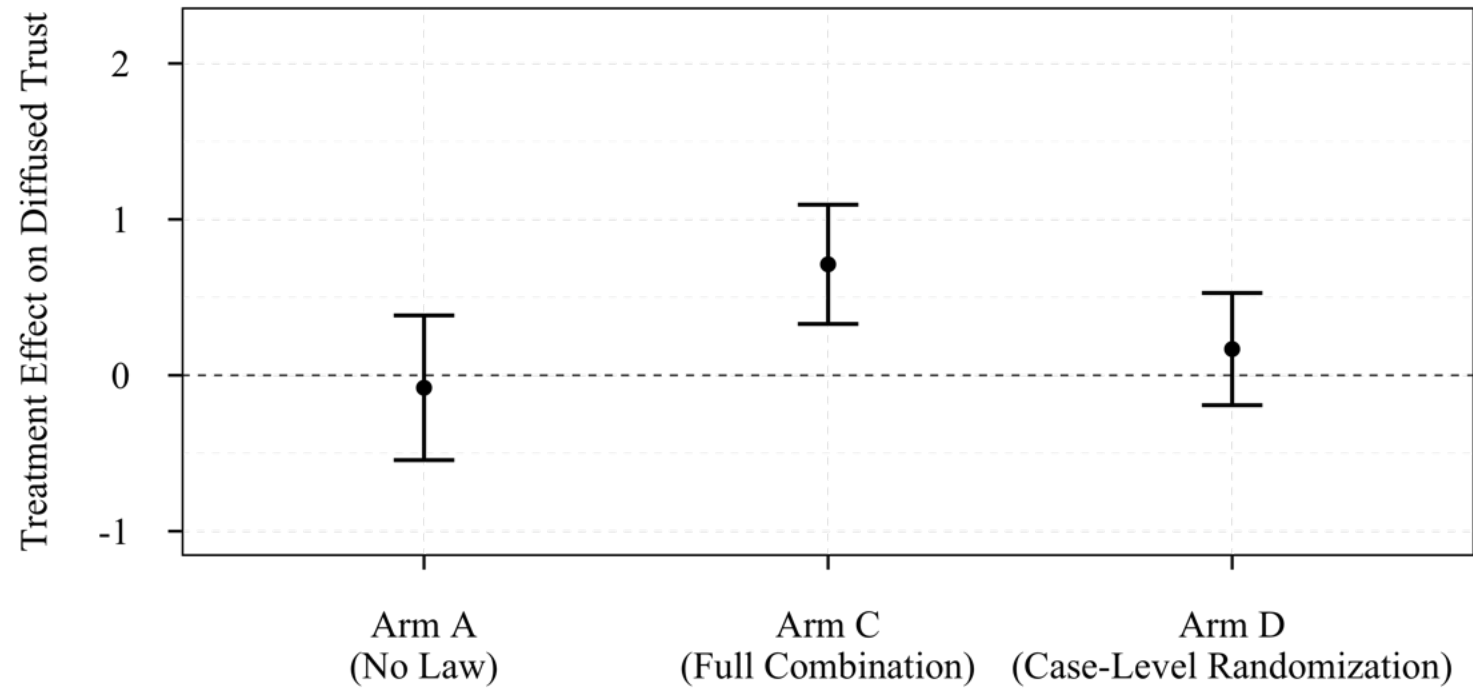
Why did publication not matter?

- Three possibilities: First, perhaps respondents did not perceive predictable action as significantly more desirable than unpredictable action (unlikely).
- Second, maybe they did not believe that the publication of laws would render government action significantly more predictable—perhaps because they had insufficient confidence in their own ability to acquire the necessary legal knowledge (more likely).
- Third, perhaps they thought that they could figure out the rules just as well by observing patterns of enforcement, with or without publication (unlikely).

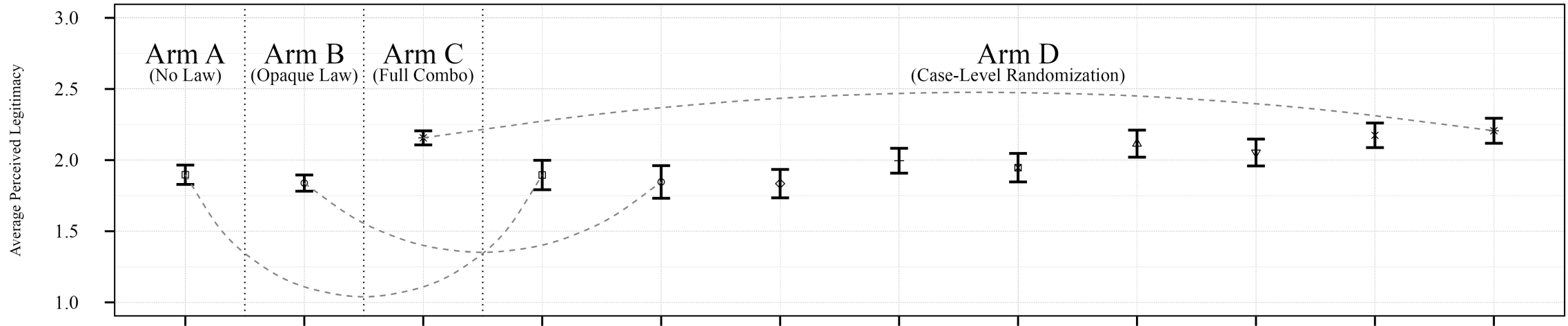
Specific Support vs Diffused Support

- Scholars writing in this literature tend to differentiate specific support for a government action and diffused support for a general institutional regime.
- We measure this by surveying, post-fact pattern, respondent's general impression of the fictional regime.
- We find that a systemically more legalistic and procedurally just regime was, as a whole, perceived as more legitimate than those that did not invest in legality and procedural justice, or did so only inconsistently.

Diffused Support



Limited Spillover



- | | | | | | |
|---|---|---|--|---|---|
| □ | no law, no publication, no training, no response | + | written law, no publication, training, no response | ▽ | written law, publication, no training, response |
| ○ | written law, no publication, no training, no response | × | written law, no publication, training, response | ⊠ | written law, publication, training, no response |
| △ | written law, no publication, no training, response | ◇ | written law, publication, no training, no response | * | written law, publication, training, response |

Supplementary Survey on Responsiveness

- One additional question we wished to address: was the positive survey response to greater responsiveness conditional upon the issuance of law?
- We conducted an additional survey on a new set of 420 respondents to test this.
- We found that the legitimacy-enhancing effects of responsiveness/procedural justice existed with or without the issuance of legal rules.
- Once again, mere issuance of rules did not matter to the respondents.

Conclusion

- “Pure legality” seems to be able to produce political legitimacy in the Chinese context, despite being shorn of substantive elements like civil freedoms and rights, and even when it does not lead to significantly greater predictability in state action.
- The greater question is: is this generally true, or is the result specific to some countries?
- We lean towards the latter.
- There are historical reasons why Chinese might care more about “pure legality” than, say, Americans.