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Pandemic State-Building: Chinese Administrative Expansion Since 2012

*Yutian An and Taisu Zhang**

In 2020, with the onset of the COVID-19 pandemic, China embarked on one of the largest expansions of administrative capacity in its modern history. Compared to its pre-COVID self, the current Chinese government can now track and manage individual activity with unprecedented precision and regularity. While some of these developments were emergency measures that were limited to the pandemic, many of them have become institutionally entrenched through generalized lawmaking and policymaking, permanently transforming the Chinese government's relationship with its population. Most importantly, the Party-state delegated enormous administrative-law enforcement and information-collection powers to two levels of urban government—the "subdistrict," and below it, the "neighborhood community"—that used to be institutionally marginalized.

This Article is the first systemic study of this paradigmatic transformation. Through a comprehensive analysis of central-level laws, regulations, and policies, paired with local case studies from major cities, it traces the institutional framework and political logic of Chinese administrative expansion. Its core argument is that the sudden onset of COVID-19 forced cohesive action onto a previously internally conflicted political landscape. Chinese leaders had contemplated a significant expansion of urban local

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governance as early as 2012, when Xi Jinping first rose to power, but as recently as 2018-19, they still seemed torn about its potential to aggravate principal-agent problems within the Party-state. The arrival of the pandemic rapidly and definitively resolved this internal debate in favor of expansionism, producing the extraordinary informational and law-enforcement apparatus that now exists in close proximity to every urban resident.

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INTRODUCTION

A fundamental tension lies at the heart of any centralized state-building project: as states expand their control over private socioeconomic life, that expansion tends to aggravate the mistrust between central and local authorities.[1] The ability to control private individuals generally requires the empowerment of local officials, who then become harder to monitor and control from the center as their power grows.[2] When and how states resolve this tension—commonly known as principal-agent problems to scholars—determines their basic organizational structure and abilities.[3]

In the spring of 2020, as the COVID-19 virus shut down economies around the world, China embarked on one of the largest expansions of administrative capacity in its modern history. Compared to its pre-COVID self, the current Chinese government tracks and regulates individual movement and behavior with vastly greater, likely unprecedented, precision and regularity.[4] At its peak, the government's COVID-control regime allowed it to identify the location of almost any urban resident to within a few blocks, and to rapidly make and execute decisions on whether

1. JOEL S. MIGDAL, STRONG SOCIETIES AND WEAK STATES: STATE-SOCIETY RELATIONS AND STATE CAPABILITIES IN THE THIRD WORLD 28-29, 33 (1988); Sinclair Dinnen, *State-Building in a Post-Colonial Society: The Case of Solomon Islands*, 9 CHI. J. INT'L L. 51, 51-52 (2008).

2. Murray Scot Tanner & Eric Green, *Principals and Secret Agents: Central Versus Local Control over Policing and Obstacles to "Rule of Law" in China*, 191 CHINA Q. 644, 649-50 (2007); JEAN C. OI, RURAL CHINA TAKES OFF: INSTITUTIONAL FOUNDATIONS OF ECONOMIC REFORM 161-90 (1999).

3. See OI, *supra* note 2, at 1-15; *see generally* Gary J. Miller, *The Political Evolution of Principal-Agent Models*, 8 ANN. REV. POL. SCI. 203 (2005) (reviewing the principal-agent problem from a political science perspective); Scott Gehlbach et al., *Formal Models of Nondemocratic Politics*, 19 ANN. REV. POL. SCI. 565 (2016) (proposing models of political power and control).

4. Paul Mozur et al., *In Coronavirus Fight, China Gives Citizens a Color Code, With Red Flags*, N.Y. TIMES (July 26, 2021), https://www.nytimes.com/2020/03/01/business/china-coronavirus-surveillance.html [https://perma.cc/JH42-UYBQ]; *see also infra* Section III.A.1 (providing a detailed discussion of the health code system).

to quarantine that individual. [5] Even after the regime's sudden deconstruction in November and December of 2022, the Chinese government still possesses enormous capacities to control individual activity right down to the neighborhood and street levels. Most recently, it applied them effectively to put down the social unrest that emerged towards the end of its controversial "Zero COVID" program.[6]

To create these capacities, the Party-state delegated enormous amounts of administrative law-enforcement and information-collection powers to local bureaucrats who used to be administratively and politically marginalized. This transformation has centered on the two lowest levels of urban government—the "subdistrict" or "street" ("jiedao"), and below them, the "neighborhood community" ("shequ")—both of which previously wielded very little coercive power but are now perhaps the most salient and significant nodes of governmental power in Chinese social life. Through a massive campaign of legal and administrative empowerment, these two layers of government are now the first line of defense against any significant social problem.

To a very large extent, the empowerment of these local administrators was a pandemic-driven decision: prior to the onset of COVID, subdistricts suffered perennially from legal ambiguity and institutional mistrust.[7] While efforts were made in the 2010s to solidify their legal position and administrative powers, such efforts yielded highly uneven results due to internal tensions between governmental entities, which the regime did not attempt to resolve.[8] During the pandemic, however, subdistricts swiftly and decisively consolidated a wide range of law-enforcement and administrative powers that they were previously excluded from. They have now established themselves, probably for good, as local command centers in China's urban bureaucracy.[9]

The post-2020 rise of neighborhood organizations has been, in many ways, even more dramatic. These entities are, in nominal legal terms, urban self-governance entities designed to straddle the boundaries between state

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5. *See* Mozur et al., *supra* note 4.

6. Vivian Wang & Zixu Wang, *In China's Crackdown on Protesters, a Familiar Effort to Blame Foreign Powers*, N.Y. TIMES (Jan. 23, 2023), https://www.nytimes.com/2023/01/26/world/asia/china-protests-arrests.html [https://perma.cc/5RCV-GVWX].

7. *See infra* Section I.A.3 for a detailed discussion.

8. *See infra* Section II.B.2 for a detailed discussion.

9. *See infra* Section III.B for a detailed discussion.

and society.[10] As such, the Party-state has historically been reluctant to treat them as part of the rationalized bureaucracy. As recently as 2019, central regulations expressly emphasized the importance of maintaining a functional firewall between formal governmental entities like the subdistrict and the neighborhood organizations within them.[11] The former, not the latter, were charged with official rule-enforcement and policy-implementation duties. In fact, the latter wielded little administrative power of any kind, and were usually invisible in everyday urban life.[12]

Since the pandemic, however, such institutional restraint has been abandoned. Neighborhood organizations are now regularly treated as rationalized extensions of the Party-state, responsible for carrying out its orders just like higher-level bureaucratic entities.[13] In particular, they directly exercise authority to track individual movement and enforce quarantine decisions, thereby gaining enormous informational and coercive powers.[14] Between late 2019 and late 2022, the great majority of urban residents experienced government control most prominently through their local neighborhoods.

Although this two-tiered expansion of local power was driven by the onset of COVID, its substantive content goes far beyond pandemic management, and instead represents a permanent expansion of local authority. Many legal and regulatory documents that authorized the expansion speak in generalized terms, indicating a clear willingness to keep these structures in place after the pandemic.[15] Now that the government has gained vast new capacities to monitor and direct individual activity with considerable finesse, it shows no inclination to give them up.[16] China seems primed for an era of unprecedented statism, where the state's legal and

10. Chengshi Jumin Weiyuanhui Zuzhi Fa (城市居民委员会组织法) [Organic Law of the Urban Residents Committee] (promulgated by the Standing Comm. Nat'l People's Cong., Dec. 26, 1989, effective Jan. 1, 1990, *rev'd* Dec. 29, 2018) 2019 STANDING COMM. NAT'L PEOPLE'S CONG. GAZETTE 5, art. 2.

11. Guanyu Jiaqiang he Gaijin Chengshi Jiceng Dang de Jianshe Gongzuo de Yijian (关于加强和改进城市基层党的建设工作的意见) [Opinions on Strengthening and Improving Grassroot Party-Building in Urban Areas] (promulgated by the Gen. Off. of the Cent. Comm. Communist Party China [CCCPC], May 8, 2019).

12. *See infra* Section II.B.2. for a detailed discussion.

13. *See infra* Section III.C for a detailed discussion.

14. *Id.*

15. *See infra* Sections III.B-III.C for a detailed discussion.

16. *Id.*

administrative imprint on everyday life extends far beyond what seemed possible even just a few years ago.

This Article is the first systemic study of this paradigmatic transformation. Through a comprehensive analysis of central-level laws, regulations, and policies, paired with local case studies from major cities, it traces the institutional framework and political logic of Chinese administrative expansion. Its core argument is that the sudden onset of COVID-19 forced cohesive action onto a previously internally conflicted political and institutional landscape: whereas Chinese policymakers seemed quite uncertain—sometimes openly split—about the merits of local governmental expansion as recently as 2018-19, the arrival of the pandemic and its unprecedented demands on state capacity decisively resolved this internal debate in favor of expansionism.

The central issue in that earlier debate was the functional tension outlined in the first paragraph of this Article: the Party-state both desired greater socioeconomic control and worried about the principal-agent problems such control would likely aggravate. Under Xi Jinping's leadership, it had, since 2012, entered into a new era of power consolidation and enhanced authoritarianism.[17] If the government were to play a more direct and prominent role in ordering social and economic life, then expanding the powers of local governments seemed functionally necessary. At the same time, however, Party leaders were constantly wary of the power abuses and political fragmentation that such expansion might enable. Regulations and policy documents between 2012 and 2019 reflected both kinds of considerations: higher-level governments were sometimes instructed to delegate powers to local entities, but also to tighten control over them.[18] The status quo was often maintained in practice.

COVID-19 changed all these calculations, dramatically pushing the Party-state into a pro-expansion paradigm. Even so, it would be a mistake to simply attribute the scope and thoroughness of recent developments to the pandemic alone. The existence of pre-pandemic deliberations was also crucially important, in the sense that it allowed pandemic-era pressures to strengthen pre-existent political possibilities, rather than having to construct them from scratch. In particular, the general elevation of local government authority since 2020, as opposed to a narrower, pandemic-

17. Sue-Lin Wong, *Xi Jinping: The Making of a Dictator*, ECONOMIST (Oct. 19, 2022), https://www.economist.com/1843/2022/10/19/xi-jinping-the-making-of-a-dictator [https://perma.cc/V9BD-RRQK].

18. *See infra* Section II.C.3 for a detailed discussion.

limited expansion, is likely explained by the fact that a general expansion was already being contemplated—if somewhat tentatively—before 2019.[19]

Despite the enormous importance of the Chinese Party-state's post-2020 expansion, it has drawn almost no academic attention. There are some obvious reasons for this: foreign scholars have largely been locked out of the country due to pandemic-era travel restrictions and have little experience with the new institutional paradigm. Scholars in China, in contrast, have experienced it firsthand, but may not feel free to write about it. The combination of these factors has left the academic community poorly equipped to understand one of the most important episodes in China's administrative and legal history. This Article begins to fill this major gap by laying out the institutional structures of the expansion and identifying their primary political logic.

It is organized as follows: Part I supplies two different kinds of background information: first, it gives an overview of China's administrative hierarchy; second, it briefly summarizes what little academic literature there is on China's recent administrative expansion, placing it against a larger literature on legal and institutional reform in the Xi Jinping era. Part II traces how the Party-state grappled with local government functionality, at both the street and community level, before the pandemic. Part III illustrates how COVID-19 sharply accelerated the Party's endorsement of local empowerment and examines the expansion of local coercive authority in some detail. It argues, in particular, that this expansion is designed to be permanent, rather than pandemic specific. Part IV assesses the outcomes of the expansion: how much local control the Chinese government now possesses, what its benefits and costs are, and whether it is likely to persist into the foreseeable future. A short Conclusion follows, discussing possible comparisons between the Chinese experience and the shock that COVID-19 has had on administrative and legal capacity in other countries.

I. Background Information

This Part provides necessary background information related to the Article's central thesis. Section I.A summarizes the basic institutional structure of China's local governments, paying particular attention to the legal and administrative position of urban subdistricts and neighborhood organizations. Section I.B supplies an overview of the relevant academic literature, teasing out, within previous scholarship, a prevalent concern

19. *See infra* Section II.B.2 for a detailed discussion.

with state-society dynamics and principal-agent problems that also run through the remainder of this Article.

A. The Chinese Administrative Hierarchy

1. An Overview

The challenges of centralized governance have been with the Party-state since its earliest days. During the Mao years (1949-1976), it initially adopted a three-tier hierarchy: (1) Center, (2) six Greater Administrative Areas, and (3) provinces, municipalities, and autonomous regions.[20] A few years later, the regime abolished the Greater Administrative Areas and annexed many municipalities to their surrounding provinces. It did not, however, formally establish any administrative divisions below the provincial level.[21] Given that China was largely a rural country and was undergoing collectivization at the time, the government saw little need to establish any formal administrative units at the local level. In the countryside, people's communes were administrative, economic, and political authorities all bundled into one;[22] in the urban areas, work units, or *danwei*, which referred to institutions like enterprises, schools, and hospitals, served a similar function.[23]

After 1976, however, Deng-era Reform and Opening Up policies forced the government to establish new administrative hierarchies. First, the economic reform accelerated China's rate of urbanization; while the urbanization rate hovered around 20% in 1980, it quickly rose to 26% in

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20. John A. Donaldson, *China's Administrative Hierarchy: The Balance of Power and Winners and Losers Within China's Levels of Government*, *in* ASSESSING THE BALANCE OF POWER IN CENTRAL-LOCAL RELATIONS IN CHINA 106 (John A. Donaldson ed. 2017).

21. Zhonghua Renmin Gongheguo Xingzheng Guihua (1954 Nian) (中华人民共和国行政区划 (1954 年）) [*The Administrative Divisions of the People's Republic of China (1954)*], ZHONGGUO ZHENGFU WANG (中国政府网) [GOV.CN] (Mar. 23, 2007), http://www.gov.cn/test/2007-03/23/content_558796.htm [https://perma.cc/SN23-ES6U].

22. Vivienne Shue, *The Fate of the Commune*, 10 MOD. CHINA 259, 259-60 (1984).

23. ANDREW G. WALDER, COMMUNIST NEO-TRADITIONALISM: WORK AND AUTHORITY IN CHINESE INDUSTRY 28-29 (1986).

1990 and 36% in 2000.[24] As cities became the hub of economic activities, there was a stronger demand for urban governments to provide more public goods, which in turn necessitated the creation of new administrative divisions. Second, many towns and villages in the coastal region initiated their own industrialization efforts, and they amassed profits and capital gains through international trade.[25] To secure their economic gains from being taken away by other localities, these towns and villages pressured the government to create new administrative units.[26] Finally, the reform of state-owned enterprises incentivized the establishment of new administrative units. Failing factories declared bankruptcy, and the *danwei* system, which was the sociopolitical structure that was built upon these enterprises, also collapsed.[27] Without *danwei* as its agent, the Party saw the urgency to maintain its control at grassroots levels through new governmental units, and building local bureaucracies was essential to such an agenda.[28]

These factors, taken together, eventually produced, by the 1980s, the five-tier administrative hierarchy that we see in China today: below the central government (first level) are provinces, municipalities, autonomous regions, and special administrative regions (second level). Below them are prefectures (third level), which often refer to relatively large cities that have not risen to the level of municipalities. These are then immediately superior to counties (fourth), which refer to the districts of prefecture-level cities, county-level cities (significantly smaller cities than those at the prefecture-level), and rural counties. The lowest administrative units are township-level governments. These are the subdistricts (*jiedao*) of municipalities and prefecture-level cities, the districts of county-level cities, or various kinds of

24. *Urban Population (% of Total Population)—China*, WORLD BANK, https://data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS?locations=CN [https://perma.cc/756H-JVG7].

25. *See generally* Oi, *supra* note 2.

26. Jae Ho Chung & Tao-Chiu Lam, *China's "City System" in Flux: Explaining Post-Mao Administrative Changes*, 180 CHINA Q. 945, 952-54 (2004).

27. Barry Naughton, *Danwei: The Economic Foundations of a Unique Institution in* DANWEI: THE CHANGING CHINESE WORKPLACE IN HISTORICAL AND COMPARATIVE PERSPECTIVE 169-94 (Xiaobo Lv & Elizabeth Perry eds., 1997).

28. Yong Gui et al., *Grassroots Transformation in Contemporary China*, 39 J. CONTEMP. ASIA 400, 400-402 (2009).

rural townships (*xiangzhen*). These administrative layers are illustrated in the table below.[29]

Table 1. The Chinese Administrative Hierarchy

Level (High to Low)	Administrative Entity
1 - Center	Central government
2 - Provincial level	Province, Municipality (Beijing, Tianjin, Shanghai, Chongqing), Autonomous region, Special administrative region
3 - Prefecture level	Prefecture-level city (major cities), Prefecture, Autonomous prefecture, League
4 - County level	County-level city (smaller cities), County (rural), District (urban), Autonomous county
5 - Township level	Towns and townships (rural), Subdistricts (urban), Ethnic townships

2. Unpacking the Party-State Relationship

The Chinese Communist Party (the CCP or the Party) has maintained a political hegemony since it came into power in 1949. After 1982, the CCP has institutionalized the Party-state system to ensure its continuous control over the polity without descending the bureaucracy into chaos.[30] As the name suggests, the Party-state system has two constituting components: the Party and the state. Although these components are intertwined, their interaction has displayed, over time, two stable structural features: (1) the

29. Zhonghua Renmin Gongheguo Xingzheng Guihua (中华人民共和国行政区划) [*The Administrative Divisions of the People's Republic of China*], ZHONGGUO ZHENGFU WANG (中国政府网) [GOV.CN] (June 15, 2005), http://www.gov.cn/guoqing/2005-09/13/content_5043917.htm [https://perma.cc/Z5W6-SBBY].

30. During the Cultural Revolution era, the distinction between the party and the state largely disappeared as the majority of the bureaucracy ceased to operate. In an effort to institutionalize the smooth functioning of the bureaucracy, the 1982 Constitution has institutionalized the separation of "party" and "state" so as to ensure the normal functioning of the bureaucracy. Huigu Peng Zhen Yu 1982 Xianfa de Dansheng (回顾彭真与 1982 年宪法的诞生) [*A Lookback of Peng Zhen and the Birth of 1982 Constitution*], RENMIN WANG (人民网) [PEOPLE.COM] (Sept. 29, 2015), http://cpc.people.com.cn/n/2015/0929/c69120-27648073.html [https://perma.cc/24MA-WSES].

Party's leadership and (2) the separation between Party and state apparatuses.[31]

On the one hand, the Party is both the *de jure* and *de facto* leader of China. The Chinese Constitution underscores the Party's preeminence by stipulating that the CCP's leadership is the "most defining feature of socialism with Chinese characteristics."[32] Institutional control is further reinforced through the Party's omnipresence across all echelons of governance, manifested through Party Committees tasked with ensuring governmental adherence to Party edicts.[33] Additionally, the Party also administers governmental personnel appointments.[34] The absolute majority of leadership positions within the government are held by CCP members, with the highest post within each level of government exclusively reserved for CCP members.[35]

On the other hand, the Party's leadership over the government does not mean that the Party and the government are one entity. The Chinese Constitution stipulates that the National People's Congress (NPC), not the Party, is the highest organ of state power.[36] The NPC exercises several crucial powers, including but not limited to legislation, budget approval, and key personnel decisions within the bureaucracy.[37] It does not, however, exercise administrative or bureaucratic authority, which fall within the purview of the State Council.[38] The State Council is the highest

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31. XIANFA, preamble (1982).

32. *See id.*

33. Federica Russo, *Politics in the Boardroom: The Role of Chinese Communist Party Committees*, DIPLOMAT (Dec. 24, 2019), https://thediplomat.com/2019/12/politics-in-the-boardroom-the-role-of-chinese-communist-party-committees [https://perma.cc/6ASA-6E35].

34. SUSAN V. LAWRENCE & MARI Y. LEE, CONG. RSCH. SERV., R46977, CHINESE POLITICAL SYSTEM IN CHARTS: A SNAPSHOT BEFORE THE 20TH PARTY CONGRESS 40 (2021), https://crsreports.congress.gov/product/pdf/R/R46977 [https://perma.cc/CP7K-LK4K].

35. The Party is also the leader of the Chinese military; in other words, the Chinese military is under the control of the CCP but not the Chinese government. *See* XIANFA art. 93 (1982).

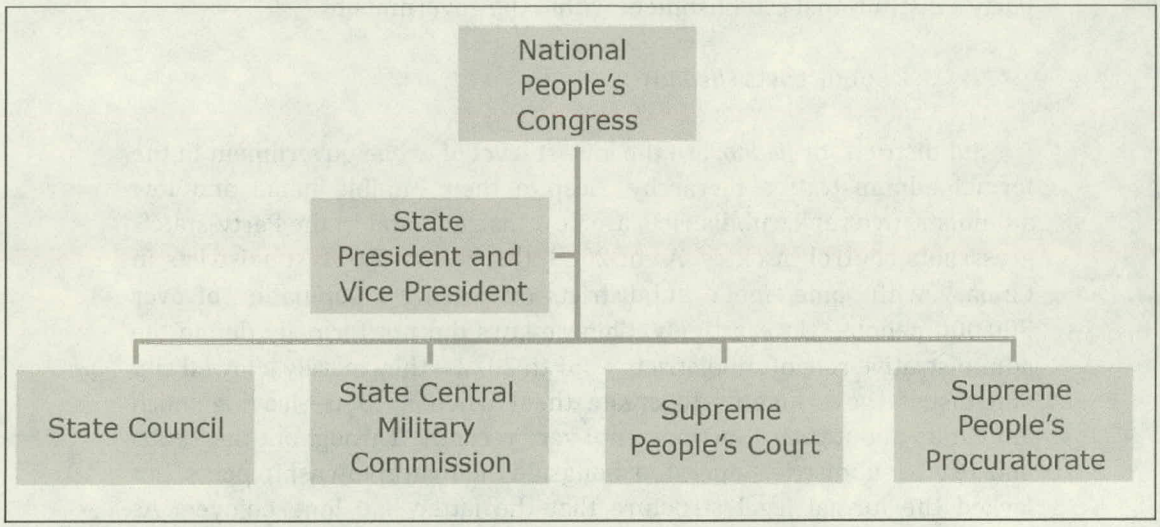
36. *See* XIANFA art. 57 (2018).

37. The personnel decisions include the election of the President and the Vice President, the Premier, the Chief Justice, the Chief Procuratorate, and other key governmental posts. *See id.* art. 63.

38. *See id.* art. 85.

administrative organ of the state apparatus, and essentially functions as the cabinet, overseeing dozens of specialized ministries—the functional equivalent of American executive departments—to ensure the proper functioning of the government.[39]

Figure 1: The Political Power Structure in China [40]



This structural division between Party and state also exists at each level of territorial government (provincial, city, county, township). While the Party Committee oversees the overall direction of the government, it is still the state apparatus, or the bureaucracy, that drives the government's steering wheel. All functional lines of bureaucracy, like the ministries, would report to the territorial government of its jurisdiction.[41] This institutional division between the Party and the state at local levels, however, has been weakened in the post-COVID years. As this Article illustrates, the Party apparatus's gradual entrenchment at grassroot levels has resulted in greater *de facto* top-down control without formally undermining the nominal legal recognition of self-governance of neighborhood communities.

39. *Id.* art. 89-92.

40. SUSAN V. LAWRENCE, CONG. RSCH. SERV., R43303, CHINA'S POLITICAL INSTITUTIONS AND LEADERS IN CHARTS 3 (2013) https://sgp.fas.org/crs/row/R43303.pdf [https://perma.cc/EP7J-YAYE].

41. They also would report to their functional authorities of higher levels (or vertical authorities, or *tiao*). *See infra* Part II, p. 358 for a detailed description.

For purposes of clarity, this Article uses the "Party-state," "regime," and "central government" interchangeably to refer to the CCP or the central government or, at the very least, the elites at the central level.[42] The term "state apparatus" exclusively refers to the bureaucratic side of the government, whereas the term "party apparatus" exclusively refers to the Party's institutional establishment within the government.

3. Subdistricts (*Jiedao*)

Subdistricts, or *jiedao*, are the lowest level of urban government in the formal administrative hierarchy. Despite their humble name and low administrative rank, subdistricts are now instrumental to the Party-state's grassroots control in cities. As of 2023, there were 9,012 subdistricts in China,[43] with some "meta" subdistricts overseeing a population of over 300,000 people.[44] Interestingly, Chinese laws did not formally define the administrative role of subdistricts prior to 2022—they merely allowed city and district governments to create them when needed—leaving much ambiguity about their functions until very recently. Throughout the 1980s and 1990s, subdistricts operated alongside their rural township peers, but lacked the formal legal structure that the latter had long enjoyed. As recently as a decade ago, there were prominent calls from Chinese officials and scholars to actually abolish subdistricts altogether.[45]

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42. We recognize that differences exist within the central leadership and that using such terms runs the risk of homogenizing the Party leadership's interests or preferences. Nevertheless, given the "black box" nature of Chinese elite politics and the methodological challenge of detecting dissents within the Party leadership, this Article assumes that policy documents issued by the central-level government organs reflect the top leadership's preferences.

43. MINISTRY OF CIVIL AFFAIRS OF THE PEOPLE'S REPUBLIC OF CHINA, 2023 NIAN 3 JIDU MINZHENG TONGJI SHUJU (2023 年 3 季度民政统计数据) [2023 Q3 Civil Affairs Statistics], https://www.mca.gov.cn/mzsj/tjsj/2023/202303tjsj.html [https://perma.cc/8DB5-9RYL].

44. *China: Shenzhen Shi (Guangdong)*, CITY POPULATION, https://www.citypopulation.de/en/china/townships/shenzhen [https://perma.cc/UPE8-KBCB].

45. Wang Su (汪苏), Minzheng Bu Guanyuan Cheng Chexiao Jiedao Shi Dashi Suoqu (民政部官员称撤销街道办是大势所趋) [*Official from the Ministry of Civil Affairs Claimed that the Abolishment of Subdistrict Governments Is a General Trend*], SINA.COM (Sept. 5, 2011), http://finance.sina.com.cn/roll/20110905

In 2022, the Chinese government finally revised its Organization Law for Local People's Congresses and Local People's Governments (hereinafter the "Organization Law") to fill this legal gap.[46] This recently revised law formally recognizes subdistrict governments, and identifies their basic range of functions: to carry out the public service, public management, and public safety tasks delegated to it by higher level governments;[47] to perform general management, logistical coordination, emergency response, and administrative law enforcement duties as provided by law; [48] and to supervise, support, and aid the work of community self-governance entities.[49]

On paper, then, subdistrict governments are now legally charged with performing a very wide range of tasks—which are still considerably vaguer than the enumerated functions of rural townships, [50] but nonetheless concrete enough to give us a basic sense of how subdistricts operate. In practice, they have shouldered these tasks for at least the past three decades. Ranging from street cleaning, to administering migrant workers, to monitoring social grievances, to resolving neighbor disputes, to convincing residents about the government's eminent-domain plan, and to disaster-prevention inspection[51]—these entities operated as an all-purpose

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/145210434455.shtml [https://perma.cc/LT2H-AADQ]; Chen Shenglong (陈圣龙), "Qu Zhiguan Shequ": Woguo Chengshi Shequ Guanli Tizhi de Gaige Tansuo ("区直管社区":我国城市社区管理体制的改革探索) [District Government Directly Overseeing Neighborhood Organizations: An Exploratory Reform of China's Urban Community Administration], Zhonggong Zhejiang Shengwei Dangxiao Xuebao (中共浙江省委党校学报) [CPC Zhejiang Party School Journal] no. 4 (2012).

46. Difang Geji Renmin Daibiao Dahui he Difang Geji Renmin Zhengfu Zuzhi Fa (地方各级人民代表大会和地方各级人民政府组织法) [Organization Law for Local People's Congresses at All Levels and Local People's Governments at All Levels] (promulgated by the Standing Comm. Nat'l People's Cong., Mar. 11, 2022) 2022 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 263.

47. *Id.* art. 86.

48. *Id.* art. 86.

49. *Id.* art. 87.

50. *Id.* art. 76.

51. *See, e.g.*, Shanghai Jiedao Baoshichu Tiaoli (上海街道办事处条例) [Regulations on Subdistrict Governments of Shanghai] (promulgated by the Standing

street-level bureaucracy well before they received formal legal recognition as such.

4. Neighborhood Organizations (*Shequ*)

The Party-state's penetration into urban society does not stop at the subdistrict level. Beneath the subdistrict level are urban neighborhood resident committees (*shequ jumin weiyuanhui*)—often referred to simply as neighborhood organizations (*shequ*). These are the urban equivalent of rural villages. Like subdistricts, neighborhood organizations as an administrative concept did not emerge until the post-Mao era in response to the dissolution of the work unit (*danwei*) system.[52] Somewhat curiously, despite being below subdistricts in rank and power, neighborhood organizations actually gained full legal recognition and definition before subdistricts, being initially recognized in the 1982 Chinese Constitution,[53] and then fully fleshed out by statutory law in 1989, complete with an array of specified functions and structures.[54]

Despite these legal provisions, the administrative functions of neighborhood organizations have, in practice, always been somewhat ambiguous. Over their first three decades of existence, Chinese policymakers have exhibited considerable uncertainty over whether to consider these entities as part of the state apparatus or not. This was fully evident in the very first law on this matter, the Organic Law of the Urban

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Comm. Shanghai People's Cong., Jan. 15, 1997, rev'd Dec. 29, 2021); Beijing Jiedao Baoshichu Gongzuo Guiding (北京街道办事处工作规定) [Work Rules on Subdistrict Governments of Beijing] (promulgated by the Beijing Mun. Gov't, Jan. 14, 1999, rescinded Mar. 30, 2021).

52. *See* Judith Audin, *Governing Through the Neighborhood Community (*Shequ*) in China*, 65 REVUE FRANÇAISE DE SCIENCE POLITIQUE [FRENCH J. POL. SCI.] 85 (Katharine Throssell trans., 2015); *see also* Naughton, *supra* note 27, at 169, 171 (explaining that "economic reforms beg[inning] after 1978" have undermined the "foundations of the *danwei* system," "spell[ing] profound change . . . and point[ing] to its eventual abolition").

53. *See* XIANFA art. 111 (1982).

54. Chengshi Jumin Weiyuanhui Zuzhi Fa (城市居民委员会组织法) [Organic Law of the Urban Residents Committee] (promulgated by the Standing Comm. Nat'l People's Cong., Dec. 26, 1989, effective Jan. 1, 1990, rev'd Dec. 29, 2018) 2019 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 5. art. 2.

Resident Committee.[55] This document defined urban resident committees as "mass organization[s] for self-government at the grassroots level, in which the residents manage their own affairs, educate themselves, and serve their own needs." [56] Such language suggests that neighborhood organizations are autonomous, self-governing entities, but the law further states that the government "shall provide guidance, support and help for the resident committees in their work,"[57] and that the residents committees "shall, on their part, assist higher-level people's governments or bureaucratic agencies in their work."[58]

In practice, city governments have never allowed neighborhood organizations to wander far from state oversight, and such control has become increasingly evident since 2010, when central policies began to require city governments to provide funding for neighborhood organizations in their own annual budgets.[59] Since then, city governments have not only assumed financial responsibility for neighborhood organizations, but have also routinely audited their books and records.[60] One might imagine that direct fiscal control would allow city governments to utilize neighborhood organizations as de facto administrative units, but as previous scholarship has observed, this was rarely the case prior to Xi

55. *Id.*

56. *Id.*

57. *Id.*

58. *Id.*

59. Guanyu Jiaqiang he Gaijin Chengshi Shequ Jumin Weiyuanhui Jianshe Gongzuo de Yijian (关于加强和改进城市社区居民委员会建设工作的意见) [Opinions on Enhancing and Improving the Institution of Urban Neighborhood Resident Committees] (promulgated by the Gen. Off. CCCPC and the Gen. Off. State Council, Nov. 9, 2010).

60. *See, e.g.*, Nanjing Donglu Jiedao Juminqu Gongzuo Jingfei Shiyong Guanli Banfa (Shixing) (南京东路街道居民区工作经费使用管理办法(试行)) [Temporary Measures on the Appropriation of Work Expenditures of Neighborhood Communities of Nanjing Donglu Subdistrict] (promulgated by the Nanjing Donglu Subdistrict Gov't Shanghai Mun., Feb. 18, 2019); Shequ Juweihui Caiwu Guanli Zhidu (社区居委会财务管理制度) [Financial Management Rules of Neighborhood Resident Committees] (promulgated by the Zizhuyuan Subdistrict Gov't Beijing Mun., Mar. 24, 2010).

Jinping's rise to power in 2012.[61] Very few Chinese citizens experienced them as administrative entities with coercive authority. Instead, they were public service providers of limited capacity—the people you went to, for example, if your power went out, or if you wanted to order certain kinds of newspaper subscriptions.

The dual nature of neighborhood organizations is further reflected in their leadership selection methods: nominally, chairs and vice-chairs of these organizations are selected through majority vote among neighborhood residents.[62] In practice, however, district and subdistrict governments maintain substantial control over the nomination and vetting of candidates,[63] often explicitly stating in "guidance" documents that maintaining the "leadership of the Party" is a top priority—perhaps *the* top priority.[64]

As a whole, the government continued to be somewhat ambivalent on whether to incorporate neighborhood organizations into the formal administrative hierarchy in the late 1990s and 2000s. On the one hand, central-level directives continued to emphasize that neighborhood organizations were local self-governance entities and should not be used as official governmental entities.[65] On the other hand, the sheer scale and speed of Chinese urbanization nonetheless forced many city governments

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61. Tian Yipeng (田毅鹏) & Xue Wenlong (薛文龙), *Chengshi Guanli "Wanggehua" Moshi yu Shequ Zizhi Guanxi Chuyi* (城市管理"网格化"模式与社区自治关系刍议) [*A Discussion on the Relationship Between Grid-Style Urban Management and Neighborhood Self-Governance*], XUEHAI (学海) [ACADEMIC BIMESTRIE] no.3 (2012).

62. Chengshi Jumin Weiyuanhui Zuzhi Fa (城市居民委员会组织法) [Organic Law of the Urban Residents Committee] (promulgated by the Standing Comm. Nat'l People's Cong., Dec. 26, 1989, effective Jan. 1, 1990, rev'd Dec. 29, 2018) 2019 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 5. art. 8.

63. *See* Audin, *supra* note 52, at 8 (Katharine Throssell trans., 2015).

64. *See, e.g.*, Jiangsu Sheng Shequ Jumin Weiyuanhui Xuanju Zhidao Guicheng Shixing (江苏省社区居民委员会选举指导规程试行) [Preliminary Guidelines on Urban Resident Committee Election of Jiangsu Province], art. 6 (promulgated by the Bureau Civ. Affs. Jiangsu Province, June 12, 2020).

65. *See, e.g.*, Guanyu Jiaqiang Chengxiang Shequ Xieshang de Yijian (关于加强城乡社区协商的意见) [Opinions on Enhancing Neighborhood Deliberation in Urban and Rural Areas] (promulgated by the Gen. Off. CCCPC and the Gen. Off. St. Council, July 22, 2015) 2015 ST. COUNCIL GAZ. 22.

to assign them greater responsibilities over time—these are discussed in considerable detail in Parts II and III.

Overall, both subdistricts and neighborhood organizations have been instrumental to the Party-state's grassroots governance in urban centers, but like any other local government entity, they also pose a number of internal governance challenges. The sheer volume of these entities makes monitoring their activities enormously difficult and costly. As the government penetrates more deeply into local society, it naturally faces exponentially greater principal-agent problems, and this is no less true of urban governance than it is of rural governance. However, as discussed in the following Section, preexisting scholarship has paid significantly less attention to these urban entities than to their rural counterparts.

B. Relevant Academic Literature

There are three different bodies of academic literature relevant to this Article, each discussed in a separate Sections below. First, there is a massive and decades-long literature in the social sciences on Chinese local governance, which often coalesced around center-local principal-agent relations as a core analytical framework. Second, a separate strand of research has focused on Xi-era changes to China's law enforcement and administrative organs. Finally, there is a fast-growing literature on China's response to the COVID-19 crisis. There are significant gaps in all three literatures that this Article begins to fill. It adds an urban dimension to the local governance literature, a local governance dimension to the literature on Xi Jinping-era political change, and a legal-institutional dimension to the COVID-19-response literature.

1. Chinese Local Governance

Of these three literatures, the local governance literature is by far the largest and most theoretically sophisticated, spanning multiple decades of

research across political science,[66] sociology,[67] history,[68] economics,[69] and law.[70] Despite the highly varied institutional and political terrain that scholars have had to deal with, some common themes permeate most studies of local Chinese governance, regardless of era and location. First, there is a widely shared interest in principal-agent problems between central authorities and their local agents: the actual level of central control has varied heavily from era to era, but the nominal principal-agent relationship between the center and the localities has always been a bedrock principle of modern Chinese politics, law, and administration.[71]

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66. *See generally* YANG ZHONG, LOCAL GOVERNMENT AND POLITICS IN CHINA: CHALLENGES FROM BELOW (2015); JESSICA C. TEETS & WILLIAM HURST, LOCAL GOVERNANCE INNOVATION IN CHINA (2014); Yongshun Cai, *Local Governments and the Suppression of Popular Resistance in China*, 2008 CHINA Q. 24; Jean C. Oi, *The Role of the Local State in China's Transitional Economy*, 1995 CHINA Q. 1132.

67. *See generally* XUEGUANG ZHOU, THE LOGIC OF GOVERNANCE IN CHINA: AN ORGANIZATIONAL APPROACH (2022); Andrew G. Walder, *Local Governments as Industrial Firms*, 101 AM. J. SOCIO. 263 (1995).

68. For sources focusing on twentieth-century developments, see, for example, Kristin Stapleton, *The Rise of Municipal Government in Early Twentieth-Century China: Local History, International Influence, and National Integration*, 47 TWENTIETH-CENTURY CHINA 11 (2022); HUAIYIN LI, VILLAGE CHINA UNDER SOCIALISM AND REFORM: A MICRO-HISTORY, 1948-2008 (2009); and PRASENJIT DUARA, CULTURE, POWER, AND THE STATE: RURAL NORTH CHINA, 1900-1942 (1988).

69. *See generally* Monica Martinez-Bravo, Gerard Padró i Miquel, Nancy Qian & Yang Yao, *The Rise and Fall of Local Elections in China*, 112 AM. ECON. REV. 2921 (2022); Chenggang Xu, *The Fundamental Institutions of China's Reforms and Development*, 49 J. ECON. LITERATURE 1076 (2011); Gabriella Montinola, Yingyi Qian & Barry R. Weingast, *Federalism, Chinese Style: The Political Basis for Economic Success*, 48 WORLD POL. 50 (1996).

70. *See generally* Tom Ginsburg, *Administrative Law and the Judicial Control of Agents in Authoritarian Regimes*, *in* RULE BY LAW: THE POLITICS OF COURTS IN AUTHORITARIAN REGIMES 58 (Tamir Moustafa & Tom Ginsburg eds., 2008); John Ohnesorge, *Chinese Administrative Law in the Northeast Asian Mirror*, 16 TRANSNAT'L L. & CONTEMP. PROBS. 103 (2006); Randall Peerenboom, *Globalization, Path Dependency and the Limits of Law: Administrative Law Reform and Rule of Law in the People's Republic of China*, 19 BERKELEY J. INT'L L. 161 (2001).

71. For a relatively comprehensive discussion, see ZHOU, *supra* note 67. For specific applications, see, for example, Genia Kostka & Jonas Nahm, *Central-Local Relations: Recentralization and Environmental Governance in China*, 2017 CHINA Q. 567. For a more theoretical treatment applicable across regime

Second, scholars have consistently tried to probe the actual extent of the government's control over local society.[72] Historically, there been obvious limitations to the government's actual power: the Qing state, for example, largely retreated from subcounty governance by the late eighteenth century, and most historians would agree that the Republican state's village-level control was dubious at best. Although the early Communist regime made several major attempts to project power directly at the village and commune level,[73] scholars have nonetheless portrayed rural villages as substantially self-governing right up to the contemporary era.[74]

These two themes—principal-agent problems within the government apparatus and state-society boundaries beyond it—are heavily intertwined. As many studies have demonstrated, the effective projection of governmental power into distant localities requires significant empowering of local officials,[75] but such empowering tends to aggravate principal-agent problems: all other things held equal, more powerful local agents are more capable of evading central control, and in some circumstances may even pose a threat to it.[76]

If the center attempts have its cake and eat it, too—that is, to empower local officials vis-à-vis local society but not at the cost of its own control—then mainstream academic wisdom suggests that it must invest more heavily in instruments of internal monitoring, investigation, enforcement,

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types, see, for example, Mathew D. McCubbins, Roger G. Noll & Barry R. Weingast, *Administrative Procedures as Instruments of Political Control*, 3 J. L., Econ. & Org. 243 (1987); and Kathleen M. Eisenhardt, *Agency Theory: An Assessment and Review*, 14 Acad. Mgmt. Rev. 57 (1989).

72. On the limits of state power at the local level, see, for example, Daniel Mattingly, The Art of Political Control in China (2019); and Kevin O'Brien & Lianjiang Li, Rightful Resistance in Rural China (2006). On urban control and resistance, see, for example, Mary E. Gallagher, *Mobilizing the Law in China: "Informed Disenchantment" and the Development of Legal Consciousness*, 40 L. & Soc'y Rev. 783 (2006).

73. *See* Li, *supra* note 68; *see also* Edward Friedman, Paul G. Pickowicz & Mark Selden, Revolution, Resistance, and Reform in Village China (2007).

74. *See, e.g.*, Martinez-Bravo et al., *supra* note 69; Graeme Smith, *The Hollow State: Rural Governance in China*, 2010 China Q. 601.

75. This is perhaps most vividly observed in the story of village-level power projection documented *in* Friedman, Pickowicz & Selden, *supra* note 73; and Li, *supra* note 68. *See also* Zhou, *supra* note 67, at 209-73.

76. Models that produce this conclusion are given in, for example, Ginsburg, *supra* note 70.

and punishment: for example, centralized and professionalized judiciaries that are institutionally independent of local authorities, or anticorruption systems that can censure local officials who step out of line.[77] Needless to say, these are extremely expensive investments, requiring enormous political will that has often been difficult to assemble. As a result, change in local governance has often been slow and trepid.[78]

Given that this academic literature has focused so heavily on power relations—whether between central and local officials, or between state and society at large—it has naturally focused on local entities that hold significant amounts of political power. In the rural context, the sheer geographical distance between counties, townships, and villages meant that even townships and villages had some amount of functional autonomy, and therefore demanded considerable amounts of academic attention.[79] In particular, with the rise of township and village enterprises as a significant economic and fiscal phenomenon in the 1980s and 1990s, scholars poured intellectual resources into studying the lowest levels of rural sociopolitical organization.[80]

In the urban context, however, very little attention has been given to subdistrict government entities, likely because, until very recently, such entities simply did not possess much coercive power—or, for that matter, any policymaking authority at all—even as they shouldered a disproportionately large number of everyday public service obligations.[81]

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77. *See id.*; *see, e.g.*, Taisu Zhang & Tom Ginsburg, *China's Turn Toward Law*, 59 VA. J. INT'L L. 278 (2019); *supra* note 71. On public support for these measures, see Yiqin Fu, Yiqing Xu & Taisu Zhang, *Does Legality Produce Political Legitimacy? An Experimental Approach* (Stanford King Ctr. on Glob. Dev., Working Paper No. 2008, 2021), https://kingcenter.stanford.edu/sites/g/files/sbiybj16611/files/media/file/wp2008_0.pdf [https://perma.cc/A6T3-D9F3].

78. For a specific discussion of the slow pace of urban local government reform prior to 2020, see *infra* Part II. On general trends since the 1980s, see ZHOU, *supra* note 67.

79. ZHONG, *supra* note 66, for example, focuses largely on township politics. On village politics, see *supra* note 74.

80. There is a fairly large literature on township and village enterprises, especially in economics. For a summary, see, for example, HONGYI CHEN, THE INSTITUTIONAL TRANSITION OF CHINA'S TOWNSHIP AND VILLAGE ENTERPRISES (2017); and Yasheng Huang, *How Did China Take Off?*, 26 J. ECON. PERSPS. 147 (2012).

81. What little literature there is on subdistricts (*jiedao*) tends to come from urban planning or land use scholars. *See, e.g.*, Kang Wu, Ying Long, Qizhi Mao

Neighborhood organizations have drawn some interest for their potential as self-governance or civil society entities, but less so for their administrative governance capacities.[82] Even the handful of studies, mainly from the early 2000s, that did examine the governance aspects of neighborhood organizations focused primarily on the political consequences of residential self-governance and tended to overlook their potential for extending direct government control.[83]

The relative lack of academic interest in urban local governance was understandable when China was still predominantly rural, but as China has rapidly urbanized over the past four decades, it has become untenable. The Chinese population is now nearly two-thirds urban, and while the number of rural townships has declined by nearly 12,000 units during the past two decades, the number of urban subdistricts has grown by over 3,000 units, or more than 30%, over the same period.[84] The number of people living in

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& Xingjian Liu, Featured Graphic, *Mushrooming* Jiedaos, *Growing Cities: An Alternative Perspective on Urbanizing China*, 47 ENV'T & PLAN. A: ECON. & SPACE 1 (2015); Chiew Ping Yew, *Pseudo-urbanization? Competitive Government Behavior and Urban Sprawl in China*, 21 J. CONTEMP. CHINA 281 (2012).

82. *See, e.g.*, Jessica C. Teets, *Let Many Civil Societies Bloom: The Rise of Consultative Authoritarianism in China*, 2013 CHINA Q. 19; Qingwen Xu, Douglas D. Perkins & Julian Chun-Chung Chow, *Sense of Community, Neighboring, and Social Capital as Predictors of Local Political Participation in China*, 45 AM. J. CMTY. PSYCH. 259 (2010); Arjan Hazelzet & Bart Wissink, *Neighborhoods, Social Networks, and Trust in Post-Reform China: The Case of Guangzhou*, 33 URB. GEOGRAPHY 204 (2012). There is also a separate literature on homeowner associations in Chinese cities, but these associations are different from neighborhood organizations. *See* Qiang Fu & Nan Lin, *The Weaknesses of Civic Territorial Organizations: Civic Engagement and Homeowners Associations in Urban China*, 38 INT'L J. URB. REG'L RSCH. 2309 (2014); Shitong Qiao, *The Authoritarian Commons: Divergent Paths of Neighborhood Democratization in Three Chinese Megacities* (Duke L. Sch. Pub. L. & Legal Theory Rsch. Paper Series, Working Paper No. 2022-29, 2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3780846 [https://perma.cc/7JTR-XVGE].

83. *See, e.g.*, David Bray, *Building 'Community': New Strategies of Governance in Urban China*, 35 ECON. & SOC'Y 530 (2006); James Derleth & Daniel R. Koldyk, *The* Shequ *Experiment: Grassroots Political Reform in Urban China*, 13 J. CONTEMP. CHINA 747 (2004).

84. MINISTRY OF CIVIL AFFAIRS OF THE PEOPLE'S REPUBLIC OF CHINA, 2022 NIAN MINZHENG SHIYE FAZHAN TONGJI GONGBAO (2022 年民政事业发展统计公报) [STATISTICAL BULLETIN ON THE DEVELOPMENT OF CIVIL AFFAIRS 2022],

those subdistricts has grown by even more, by nearly 100% since 2000.[85] The intellectual need to study urban local governance has correspondingly increased, if only to keep pace with demographic movement. What this Article offers for local governance scholars, then, is an understanding of how urban administrative and legal infrastructure has evolved over the past decade—that is where the real action has been for some time now.

2. Changes Under the Xi Jinping Era

The second strand of academic discourse relevant to this Article is the literature on political and institutional changes under the Xi Jinping regime. As many have noted, Xi's rule has produced a number of major shifts or outright reversals in political structure and policy direction: most famously (or perhaps infamously), he has dismantled the power-sharing system that previously maintained some semblance of factional balance within the Party leadership, replacing it with a politburo fully loyal to him personally.[86] This has allowed him to disregard previous political succession norms and, through a constitutional amendment in 2018 that removed presidential term limits, clear the legal pathway for himself to remain as China's unchallenged supreme leader for the foreseeable future.[87]

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https://www.mca.gov.cn/n156/n2679/c1662004999979995221/attr/306352.pdf [https://perma.cc/L9QU-34K4]; MINISTRY OF CIVIL AFFAIRS OF THE PEOPLE'S REPUBLIC OF CHINA, 2002 NIAN MINZHENG SHIYE FAZHAN TONGJI GONGBAO (2002 年民政事业发展统计公报) [STATISTICAL BULLETIN ON THE DEVELOPMENT OF CIVIL AFFAIRS 2002], https://www.mca.gov.cn/n156/n189/c93372/content.html [https://perma.cc/2KXK-YUG5].

85. NATIONAL BUREAU OF STATISTICS OF CHINA, CHINA STATISTICAL YEARBOOK 2023, https://www.stats.gov.cn/sj/ndsj/2023/indexch.htm [https://perma.cc/TN7X-AUKV].

86. For basic timelines of these developments, see, for example, John Ruwitch, *Timeline—The Rise of Chinese leader Xi Jinping*, REUTERS (Mar. 16, 2018, 5:11 AM EDT), https://www.reuters.com/article/us-china-parliament-xi-timeline/timeline-the-rise-of-chinese-leader-xi-jinping-idUSKCN1GS0ZA [https://perma.cc/CHP7-9PW2]; and *Timeline: Chinese Leader Xi Jinping's Rise and Rule*, AP NEWS (Oct. 23, 2022, 11:44 PM EDT), https://apnews.com/article/congress-xi-jinping-beijing-china-government-and-politics-36f8476c2f604282c08178d661111686 [https://perma.cc/DT9K-EZ5Q].

87. On the 2018 constitutional amendments, see the discussion in Zhang & Ginsburg, *supra* note 77; and Feng Lin, *The 2018 Constitutional Amendments: Significance and Impact on the Theories of Party-State Relationship in China*, 1 CHINA PERSPS. 11 (2019).

Centralization in the realm of high politics has dovetailed with more centralized control across the entire Party-state infrastructure. As noted above, the Xi regime has centralized vastly more power from local governments than its predecessors, largely reversing decades of fiscal and administrative decentralization.[88] It has also upended the somewhat delicate balance between state control and market forces in the Chinese economy, swinging its developmental course towards greater statism.[89] Finally, Xi has championed greater investment in legality and judicial professionalism, making "governing the country according to law" a key component.[90] This has not produced any substantive strengthening of civil and political rights—if anything, it has done the opposite—but it did at least seem to produce more rules-oriented governmental behavior.[91]

All of this was going on even before the pandemic, packed largely into a five-year window between 2014 and 2019. The enormous amount of institutional change going on meant that scholars were often scrambling just to keep up, and some things were bound to receive less attention, including Xi's efforts to revamp urban local government structures.[92] To

88. *See supra* note 77.

89. For a general discussion, see ELIZABETH C. ECONOMY, THE THIRD REVOLUTION: XI JINPING AND THE NEW CHINESE STATE (2018). On regulation of the tech sector in particular, see Angela Huyue Zhang, *Agility Over Stability: China's Great Reversal in Regulating the Platform* Economy, 63 HARV. INT'L L.J. 457 (2022). On the pre-Xi status quo, see, for example, Xi Li, Xuewen Liu & Yong Wang, *A Model of China's State Capitalism* (Aug. 2015) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2061521 [https://perma.cc/Y8D4-ADJ4]; and Li-Wen Lin & Curtis J. Milhaupt, *We Are the (National) Champions: Understanding the Mechanisms of State Capitalism in China*, 65 STAN. L. REV. 697 (2013).

90. Zhang & Ginsburg, *supra* note 77; Fu, Xu & Zhang, *supra* note 77.

91. Fu, Xu & Zhang, *supra* note 78; *see also* Yueduan Wang, *"Detaching" Courts from Local Politics? Assessing the Judicial Centralization Reforms in China*, 2021 CHINA Q. 545; Hualing Fu & Michael Dowdle, *The Concept of Authoritarian Legality: The Chinese Case*, *in* AUTHORITARIAN LEGALITY IN ASIA: FORMATION, DEVELOPMENT AND TRANSITION 63 (Weitseng Chen & Hualing Fu eds., 2020).

92. There is a modest urban studies literature about these developments, most of which is in Chinese and rarely deals with the broader political context. This literature is summarized in Wu Mei (吴美), *Jiedao Banshichu Gaige Yanjiu Zongshu* (街道办事处改革研究综述) [*A Research Overview of Subdistrict Government Reforms*], HEBEI QIYE (河北企业) [HEBEI ENTERPRISES] no. 11 (2020).

some extent, these academic imbalances simply reflected the new political reality: given Xi's emphasis on centralization and the avalanche of policy changes directly coming from Beijing, it was perhaps only natural that more attention would flow to the center and away from the local.

Nonetheless, no understanding of top-down change is substantively complete without an account of how that change will actually be implemented on the ground level, especially change that has explicitly tried to expand the state's penetration into society. As many have argued, the overall direction of Xi's institutional engineering has been towards greater state control of society.[93] These policy trends have significantly amplified the need to reinforce local law and policy enforcement capacity, both against socioeconomic organizations and increasingly against individual citizens. At the same time, however, Xi has also made controlling local government activity a core tenet of his political agenda through his centralization pushes. This presents institutional challenges that are qualitatively different from what previous administrations faced during China's post-Mao era of marketization and political decentralization. With the onset of the COVID-19 pandemic, these challenges have gone into overdrive, as has the academic need to better understand how the Xi regime intends to implement its laws and policies on China's increasingly urbanized population.

3. China's COVID-19 Response

For better or worse, China's governance structure allowed it do things during the COVID-19 pandemic that almost no country could manage—certainly not at a similar scale—and a considerable amount of intellectual energy has flowed into figuring out why. The vast majority of this new

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There are two English-language studies on these developments: Beibei Tang, *Grid Governance in China's Urban Middle-Class Neighborhoods*, 2019 CHINA Q. 43; and Jean Christopher Mittelstaedt, *The Grid Management System in Contemporary China: Grass-Roots Governance in Social Surveillance and Service Provision*, 36 CHINA INFO. 3 (2022).

93. *See supra* notes 89-90. On the crackdown in the education sector, see Yi-Ling Liu, *The Larger Meaning of China's Crackdown on School Tutoring*, NEW YORKER (May 16, 2022), https://www.newyorker.com/culture/culture-desk/the-larger-meaning-of-chinas-crackdown-on-school-tutoring [https://perma.cc/K7K6-WRGS].

literature has naturally come from the public health side of things,[94] but the governance and institutional components of the issue are unavoidable.[95] For example, scholars both inside and outside of China have commented on how China's "grid governance" structures in major cities—which, as discussed below, refer mainly to neighborhood committees and their administrative activation during the pandemic—allowed the Party-state to monitor and direct individual activity with far greater rigor than what most other countries could manage.[96]

For the most part, these studies focus firmly on the pandemic-related facets of local governance, without making a strong effort to place local governance during pandemic times within a broader institutional or political context.[97] As a result, they can serve as very useful descriptions of certain institutional phenomena but lack the ability to analyze the underlying political logic of local governance during the pandemic era. Looking forward, their public-health-centric, rather than political-economy-centric, perspective also diminishes their ability to evaluate the long-term durability of recent developments—whether they are merely a COVID-19-specific, and therefore ultimately temporary, surge in state capacity, or meant to be something more permanent. This Article aims to supply all of these missing components.

II. PRE-COVID-19 LOCAL GOVERNMENT REFORM

When Xi Jinping rose to power in 2012, he inherited an urban governance system that was in some disarray. The rapid urbanization of the previous two decades meant that city-administrative units were now

94. *See, e.g.*, David Cyranoski, *What China's Coronavirus Response Can Teach the Rest of the World*, 579 NATURE 479 (2020); John Zarocostas, *What Next for the Coronavirus Response?*, 395 LANCE 401 (2020); Shuxian Zhang, Zezhou Wang, Ruijie Chang, Huwen Wang, Chen Xu, Xiaoyue Yu, Lhakpa Tsamlag, Yinqiao Dong, Hui Wang & Yong Cai, *COVID-19 Containment: China Provides Important Lessons for Global Response*, 14 FRONTIERS MED. 215 (2020).

95. *See, e.g.*, Xueguang Zhou, *Organizational Responses to COVID-19 Crisis: Reflections on the Chinese Bureaucracy and Its Resilience*, 16 MGMT. & ORG. REV. 473 (2020); Yuen Yuen Ang, *When COVID-19 Meets Centralized, Personalized Power*, 4 NATURE HUM. BEHAV. 445 (2020); Tianke Zhu, Xigang Zhu & Jian Jin, *Grid Governance in China Under the COVID-19 Outbreak: Changing Neighborhood Governance*, SUSTAINABILITY, June, 2021, at 1.

96. *See* Zhu, Zhu & Jin, *supra* note 95; Mittelstaedt, *supra* note 92.

97. *See* Zhu, Zhu & Jin, *supra* note 95.

charged with governing a substantially larger and more mobile population, and many, both inside and outside of the bureaucracy, thought that they were not up to the task.[98] The central problem was an institutional one: districts in major cities had grown far too populous to be governed as a single unified entity, but there was no coherent institutional framework for power delegation below them.

As discussed above, urban subdistricts had long shouldered an increasingly large share of administrative duties but suffered from substantial ambiguity in their legal status. Their lack of formal legal structure led, even in 2011, to proposals for their abolishment, or at least for fundamental reorganization.[99] Operating in such an uncertain political environment, subdistricts had to cope with chronic understaffing, underfunding, and administrative undercutting from other government agencies. [100] District governments were perhaps wary of devoting permanent institutional resources to a subordinate entity that may or may not exist in five or ten years, whereas many other government agencies

98. Zhou Zhenchao (周振超) & Song Shengli (宋胜利), *Zhili Zhongxin Xiayi Shiye Zhong Jiedao Banshichu de Zhuanxing Jiqi Lujing* (治理重心下移视野中街道办事处的转型及其路径) [*The Transformation of Subdistrict Governments from a Decentralized Administration's Perspective*], LILUN TANTAO (理论探讨) [THEORETICAL DEBATE], no.2 (2019); Yang Hongshan (杨宏山), *Jiedao Banshichu Gaige: Wenti, Luxiang ji Zhidu Tiaojian* (街道办事处改革：问题、路向及制度条件) [*Reform of Subdistrict Governments: Problems, Pathways, and Institutional Contexts*], NANJING SHEHUI KEXUE (南京社会科学) [NANJING SOCIAL SCIENCES]; Rao Changlin (饶常林) & Chang Jian (常健), *Woguo Chengshi Jiedao Banshichu Guanli Tizhi yu Zhidu Wanshan* (我国城市街道办事处管理体制变迁与制度完善) [*The Institutional Perfection of Urban Subdistrict Governments' Administrative System*], ZHONGGUO XINGZHENG GUANLI (中国行政管理) [CHINESE PUBLIC ADMINISTRATION], no.2 (2011).

99. *See supra* note 45.

100. Wang Chengyuan (王程远), Guanyu Jianli Xin Xingshi Xia Chengshi Shequ Guanli Tizhi de Sikao (关于建立新形势下城市社区管理体制的思考) [*Thoughts on Establishing an Urban Community Management System Under the New Situation*], BIANZHI GUANLI YANJIU (编制管理研究) [QUOTAS MANAGEMENT RESEARCH], no.4 (2012), https://www.shbb.gov.cn/bzglyj201204/2193.jhtml [https://perma.cc/4HQ8-8K5D].

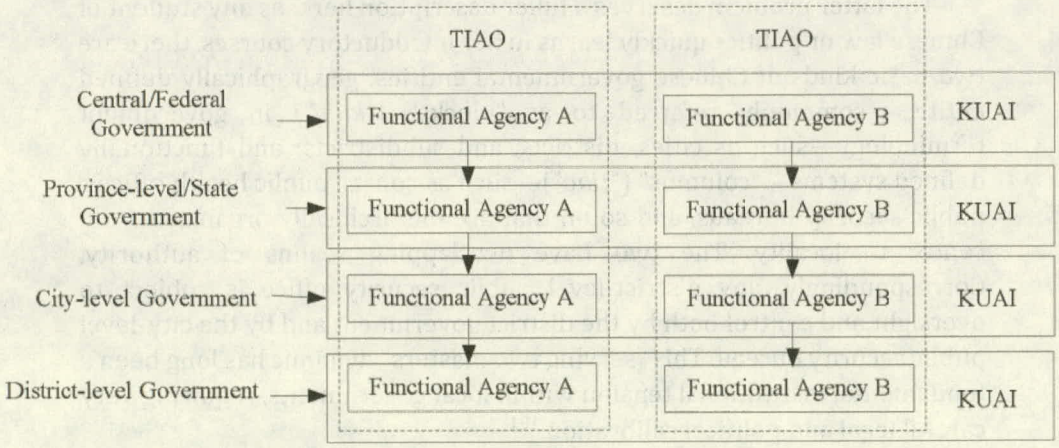
were often unwilling to cede administrative responsibility to subdistricts in the absence of formal legal directives to do so.

The latter problem deserves a fuller description here: as any student of Chinese law or politics quickly learns in her introductory courses, there are two basic kinds of Chinese governmental entities: geographically defined entities—commonly referred to as "blocks" ("*kuai*") in government terminology—such as cities, districts, and subdistricts; and functionally defined systems—"columns" ("*tiao*")—such as courts, public health offices, public security bureaus, and so on that are hierarchically organized from center to locality. The two have overlapping realms of authority. Correspondingly, any district-level public security office is subject to oversight and control both by the district government and by the city-level public security bureau. This "serving two masters" dynamic has long been a fundamental institutional tension within local governments, requiring very careful legal and political calibration.[101]

The problem with subdistricts was that if they were to be fully functional administrative units, then they, too, would have to assume some horizontal control over local law enforcement officers, health officials, and the like—but this would necessarily dilute the power of district-level law-enforcement entities, public-health offices, and so on. Without formal legal status, subdistricts were rarely in any position to demand such control and could not count on it in practice.

101. *See, e.g.*, Andrew C. Mertha, *China's "Soft" Centralization: Shifting* Tiao/Kuai *Authority Relations*, 2005 CHINA Q. 791.

Figure 2. An illustration of China's vertical and horizontal administrative authorities[102]



In contrast to the legal recognition problems that subdistricts constantly struggled with, the neighborhood organizations below them did possess a relatively well-defined legal status, but that legal status—as residential self-governance entities—actually seemed to prevent their full utilization as local administrative units.[103] Higher-level governments were nonetheless tempted to use them as such, which may actually have aggravated the institutional underinvestment in subdistrict governments: most calls for subdistrict abolishment envisioned greater empowerment of neighborhood organizations to replace subdistrict functionality, and therefore advocated for stronger command-control connections between district governments and neighborhood organizations.

Stepping into the midst of this institutional confusion in 2012, the Xi regime had a choice to make: either it could continue to muddle through as its predecessors had, hoping that local governments could work things out on an *ad hoc* basis, or it could attempt to clarify the powers and duties of these urban governance entities through top-down legislation and regulation. From the very beginning, it sent clear signals that they intended to act through top-down directives, and generally in the direction of *strengthening* subdistricts and neighborhood organizations. As Xi himself put it in a March 2014 speech, "the emphasis on social governance must be at the community level in both cities and rural townships; the better

102. Jing Fan et al., *G2G Information Sharing Among Government Agencies*, 51 INFO. & MGMT. 120 (2014).

103. *See supra* note 54.

community services and social management are, the stronger fundamentals of local governance."[104]

Local governance activities come in two different varieties: for lack of a better description, carrots and sticks. The former roughly refers to the supply of social goods such as water, electricity, heating, sports facilities, libraries, legal aid, or official certification services—these are things that, for the most part, private parties usually want the state to perform, and require relatively little coercive power. The latter refers to government activities that are more obviously coercive in nature, and more directly related to political control, with law enforcement being the most prominent example. There is, of course, conceptual overlap between these categories: carrots also require the exercise of coercive force, whereas sticks can supply positive social goods such as stability and order. Nonetheless, there is an intuitive difference between the government offering someone legal aid and the government prosecuting him—a difference that Xi's 2014 speech, which explicitly differentiated between "communal service" and "social management" as different administrative categories, seemed to embrace.[105]

In the realm of subdistricts and neighborhood organizations, pre-2020 central lawmaking and policymaking gestured towards expansion in both categories but made substantive changes far more decisively in carrots than in sticks. This seems to simply reflect a common-sense expectation that having local governments provide more carrots will be less socially controversial and politically costly than allowing them to carry larger sticks, but the difference is nonetheless striking.

This Part traces these legal and administrative developments up to the eve of the COVID-19 outbreak. It separates the bundle of local-governance reforms introduced since 2012 into three categories, each laid out in a separate Section. The first category includes "carrots," as defined above. The second category includes "sticks." The final category includes a number of internal-governance reforms that speak to the political logic behind the previous two categories. These reforms focused on ramping up top-down oversight of newly empowered local agents, which strongly suggests that uncertainty over principal-agent control underlay central reservations over the expansion of "sticks."

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104. Xi Jinping Canjia Shanghai Daibiaotuan Shenyi (习近平参加上海代表团审议) [Xi Jinping Attending Shanghai Delegation's Deliberation Session], Quanguo Renmin Daibiao Dahui (全国人民代表大会) [NPC.Gov.Cn] (Mar. 5, 2014), http://www.npc.gov.cn/zgrdw/npc/xinwen/2014-03/06/content_1839144.htm [https://perma.cc/U427-NPN4].

105. *See infra* Section II.B.

A. Giving More Carrots

Even before Xi's ascension, central authorities had expressed some alarm that an inadequate supply of public services could undermine the citizenry's trust in local governments over the long run.[106] In 2011, the State Council promulgated a five-year plan regarding the development of community services. [107] This plan prescribed several key goals for grassroots governments: ranging from medical care services to legal services.[108] Few details on how exactly these goals would be achieved were provided, but the political concern was clear enough.

If the 2011 plan only laid out some general goals for grass-root bureaucracies in terms of what types of local services they should provide, the Party leadership became more practical about improving public service provision over the next few years. One major impediment to public service delivery was that local bureaucracies had inadequate resources and personnel at their disposal, and this was especially true of urban local government.[109] These constraints obviously limited their ability to provide adequate public services to an ever-expanding urban population, and the central government sought to address this issue a few years into Xi's reign.

In 2017, central authorities began to push for the allocation of more administrative resources to grassroots bureaucracies. In a policy guideline jointly promulgated by the Central Committee of the Communist Party of China (CCCPC) and the State Council on enhancing community governance, the central government made "channeling personnel, financing, and material resources to the grassroots community level" and "augmenting

106. RORY TRUEX, MAKING AUTOCRACY WORK 73-74 (2016).

107. Guanyu Yinfa Shequ Fuwu Tixi Jianshe Guihua (2011-2015 Nian) de Tongzhi (关于印发社区服务体系建设规划（2011-2015 年）的通知) [Announcement on the Publication of the Blueprint of Constructing Community Services System (2011-2015)] (promulgated by the Gen. Off. of the St. Council, Dec. 20, 2011) 2012 ST. COUNCIL GAZ. 1 (2012).

108. *Id.*

109. He Xuefeng (贺雪峰) & Tian Shuyan (田舒彦), *Ziyuan Xiaxiang Beijing Xia Chengxiang Jiceng Zhili de Sige Mingti* (资源下乡背景下城乡基层治理的四个命 题) [Four Issues on Urban and Rural Grassroots Governance in the Context of Resource's Descent to Rural Areas], SHEHUI KEXUE YANJIU (社会科学研究) [Social Sciences Research] no.6 (2020).

communities' authority in mobilizing these resources" a priority.[110] While the wording of these basic principles was facially neutral between rural and urban local governance, it was fairly obvious from the document's more specific policy language that the real focus was on increasing the resource flow to local urban governments—and reasonably so, given that urban communities were facing massive population growth, whereas rural ones were actually facing depopulation.[111]

Two years later, the central government again emphasized the importance of improving public service delivery and further expanded its scope. In another policy guideline jointly promulgated by the CCCPC and the State Council, Party leadership stressed the importance of service delivery in "key policy areas that the people care and are concerned about," including employment assistance, medical care and insurance, social assistance to the elderly and disabled, household registration, and so on.[112] This list went well beyond the traditional focus on public spaces and shared facilities to cover a wide range of social welfare goods and administrative services, most notably in the area of elderly support. This seemed to envision a more robust kind of governmental paternalism, in which the government builds up real capacity to supply living, housing, and medical assistance to its gradually aging population.[113]

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110. Guanyu Jiaqiang he Wanshan Chengxiang Shequ Zhili de Yijian (关于加强和完善城乡社区治理的意见) [Opinions on Enhancing and Perfecting Urban and Rural Community Governance] (promulgated by the CCCPC and St. Council, June 12, 2017) 2018 ST. COUNCIL GAZ. 18 (2017).

111. *Id.*

112. Guanyu Tuijin Jiceng Zhenghe Shenpi Fuwu Zhifa Liliang de Shishi Yijian (关于推进基层整合审批服务执法力量的实施意见) [Implementation Opinions on Advancing the Consolidation of Services and Enforcement Authorities at Grassroots Levels] (promulgated by the Gen. Off. of the CCCPC and the Gen. Off. of St. Council, Jan. 31, 2019) 2019 ST. COUNCIL GAZ. 5 (2019).

113. Indeed, many subdistricts' performance evaluation include metrics on the provision of public services. *See, e.g.*, 12345 Rexian 2020 Nian Qi Dui Gequ Jinxing Qiyou Wuxing Kaohe (12345 热线 2020 年起对各区进行"七有""五性"考核) [*Starting from 2020, 12345 Hotline Will Evaluate District Government's Performance on "Seven Haves" and "Five Attributes"*], BEIJING SHI RENMIN ZHENGFU (北京市人民政府) [THE PEOPLE'S GOV'T BEIJING MUN.] (Jan. 14, 2020), http://banshi.beijing.gov.cn/tzgg/202001/t20200114_425005.html [https://perma.cc/UXN7-4Y7H]. More information about government service

To their credit, central authorities did seem willing to put their money where their mouths were.[114] The government's 2019 budget included significant increases in funding to local urban governments for public-service provision, most expressly in the areas of public health and elderly support.[115] Across the board, governmental funding of local governments grew faster than central spending by 7.7%,[116] and central-fiscal transfers to local governments grew by some 12-13%.[117] In its own words, the Ministry of Finance sought to "directly supply funds to city, county, and local governments," thereby circumventing provincial control.[118] All in all, the central government has moved unambiguously in the direction of expanding urban public service provision over the past decade.

B. Carrying Larger Sticks?

Compared with the relatively uncontroversial and decisive growth of "carrots," pre-COVID expansion in the "sticks" carried by subdistricts and neighborhood organizations—the amount of coercive power they are allowed to wield over urban residents—was observably more reluctant. This Section traces these developments through two lenses: first, it looks at central efforts to grant law enforcement authority to subdistrict governments. Second, it surveys attempts to build a social control infrastructure around neighborhood organizations. Both of these initiatives

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hotline can be found at J.P., *What are China's 12345 Hotline*, THE ECONOMIST (Feb. 7, 2017), https://www.economist.com/the-economist-explains/2017/02/07/what-are-chinas-12345-hotlines [https://perma.cc/RM64-532V].

114. Caizheng Bu: Guanyu 2019 Nian Zhongyang he Difang Yusuan Zhixing Qingkuang yu 2020 Nian Zhongyang he Difang Yusuan Caoan de Baogao (财政部: 关于 2019 年中央和地方预算执行情况与 2020 年中央和地方预算草案的报告) [*Ministry of Finance: Report on 2019 Central and Local Governments' Budget Execution and 2020 Central and Local Governments' Draft Budget*], ZHONGHUA RENMIN GONGHE GUO ZHONGYANG RENMIN ZHENGFU (中华人民共和国中央人民政府) [GOV.CN] (May 30, 2020), http://www.gov.cn/xinwen/2020-05/30/content_5516231.htm [https://perma.cc/J6Y6-G4KC].

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

started around 2015 but were showing clear signs of slowdown and reconsideration by 2019.

1. The "Descent" of Law Enforcement Authority

Prior to 2015, urban law enforcement authority was predominantly exercised at the district level or above. Public-security offices did exist at the subdistrict level, but these answered to district public-security bureaus, rather than to subdistrict governments.[119] Courts, of course, only existed at the district level or above.[120] Most importantly, administrative law enforcement power—the administrative authority to issue lesser sanctions or rewards related to legal compliance—was also concentrated at the district level.[121] District governments could, in theory, delegate some of those powers to subdistricts, but rarely did so in practice. For example, urban management and law enforcement bureaus ("chengguan zhifa ju," or "chengguan" in common usage), which were the primary entity charged with administrative law enforcement to enforce urban administration regulations such as building and sanitation codes, were by rule formed at the district level. Although some subdistrict-level urban management offices did exist before 2015, they answered, in practice, to their district-level superiors, rather than to any subdistrict government.[122] Combined,

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119. Yan Li (严励), *Gongan Jiguan Renmin Jingcha Guanli Zhidu Gaige Chutan* (公安机关人民警察管理制度改革初探) [A Preliminary Exploration of the Institutional Reform of the Public Security Administration], NANDU XUETAN (南都学坛) [NANDU F.] no.6 (2018); Yu Lingyun (余凌云), *Jingcha Quan Huafen dui Tiaokuai Tizhi de Yingxiang* (警察权划分对条块体制的影响) [The Impact of Police Power Division on Tiao-kuai System], ZHONGGUO FALV PINGLUN (中国法律评论) [CHINA L. REV.] no.3 (2018).

120. Renmin Fayuan Zuzhi Fa (人民法院组织法) [Organic Law of the People's Courts] (promulgated by the Nat'l People's Cong., July 1, 1979, rev'd Oct. 26, 2018) 2018 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 735.

121. Guanyu Shenru Tuijin Chengshi Zhifa Tizhi Gaige Gaijin Chengshi Guanli Gongzuo de Zhidao Yijian (关于深入推进城市执法体制改革改进城市管理工作的指导意见) [Guiding Opinions on Deepening Urban Administrative Enforcement Reform and Improving Urban Administration Work] (promulgated by the CCCPC and the St. Council, Dec. 24, 2015), 2016 ST. COUNCIL GAZ. 2 (2016).

122. *Id.*

these institutional features meant that all three primary dimensions of Chinese law enforcement (criminal, civil, and administrative), typically only existed above and beyond subdistrict jurisdiction.

This began to change in the spring of 2015, when the central government explored the possibility of delegating more law enforcement authorities to grassroot bureaucracies. In a policy document jointly promulgated by the CCCPC and the State Council (hereinafter the "2015 document"), central authorities proposed the idea of decentralizing law enforcement authorities "to the township/subdistrict level."[123] This policy document also brought up the possibility that larger cities "can dispatch urban management law enforcement personnel to sub-district levels" in order to achieve "full enforcement coverage of urban management."[124]

Central-level interest in decentralizing law enforcement authorities continued into 2019. In January of that year, another joint opinion issued by the CCCPC and the State Council stipulated the clarification of "township and subdistrict governments' law enforcement authorities" and expressly encouraged provincial/city governments to delegate additional law enforcement authorities to grassroot governments (hereinafter the "2019 document").[125] Given that administrative law enforcement encompassed numerous types of actions and involved different governmental agencies—urban management offices were the most important agency, but hardly the only one—the document also required that "different bureaucratic units should improve their collaboration with township/sub-district governments" to improve law enforcement efforts.[126] This would require "consolidating law enforcement resources" and "carrying out law enforcement tasks in the name of township/subdistrict governments."[127]

Even if fully implemented, these directives would not have given subdistricts the kind of general law enforcement authority held by district governments—they would still only hold whatever law enforcement powers district-level entities had expressly delegated to them.[128] Even so, the prospect of concentrating subdistrict-level administrative law enforcement under their unified coordination and leadership was no small upgrade: it meant, for example, that subdistrict-level urban management

123. *Id.*

124. *Id.*

125. *See* ST. COUNCIL GAZ., *supra* note 112.

126. *Id.*

127. *Id.*

128. *Id.*

offices would now also answer to subdistrict governments, perhaps even more so than they did to district-level urban management bureaus. Such horizontal concentration had long been the norm at the district level or above,[129] but now there was a push to implement it in subdistricts as well.

One might think, just based on these policy documents, that the central government had now fully endorsed the "descent" ("xiachen") of law enforcement power to subdistricts, but this was only part of the picture. At the same time, it continued to express certain reservations towards strengthening the coercive authority of local officials. Perhaps the most salient of these was the possibility that subdistricts, operating at a greater distance from the center, would engage in various abuses of power. As discussed in the following Section, several policy documents highlighted the inadequate professionalism of local administrators as a major cause for concern and made any delegation of power conditional on the imposition of stronger professional training regimes.[130]

Likely for these reasons, even as it pushed for the descent of law enforcement authority, the 2019 document also emphasized the importance of "optimizing the leadership of higher level governments," and expressly forbade district and city governments from "transplanting their own tasks and responsibilities" onto subdistrict governments.[131] This seemed to caution against too much delegation at the same time that the document was advocating for more delegation—in other words, district governments were asked to strike a very fine balance between empowering subdistricts and keeping their powers under control. The official term for this was "delegate everything that can be appropriately delegated," which not only failed to clarify the desired balance, but in many ways revealed the lack of definitive vision and firm conviction at the center.[132]

The other problem was that, even in the potential absence of local power abuse, subdistrict governments did not quite have the capacity yet—in terms of manpower, material resources, or training—to fully shoulder law enforcement responsibilities, which made the 2019 document more than a little aspirational. One study shows that, prior to the pandemic, a typical grassroots bureaucrat already had 135 specific tasks to complete on

129. Hongbin Cai & Daniel Treisman, *Did Government Decentralization Cause China's Economic Miracle?*, 58 WORLD POL. 505, 507 (2006).

130. *See infra* Section II.C.1 for a detailed discussion.

131. *See supra* note 112.

132. *Id.*

an everyday basis.[133] To make things worse, numerous administrative meetings and conferences occupied an enormous amount of time.[134] Under such conditions, a serious attempt to enhance the law enforcement capacities of subdistricts would have to involve additional supplies of human and material resources.

Here, however the contrast with public service provision directives is very revealing: whereas the public service expansion discussed in Part I was explicitly backed with directions for major increases in allocated resources, no such resource increase was mentioned in either the 2015 or 2019 documents for law enforcement decentralization. Instead, the 2019 document simply directed subdistrict governments to "consolidate" preexisting resources.[135] This suggests that, whereas the former was primed for immediate implementation, the latter was perhaps more aspirational and hesitant.

It was therefore unsurprising that, in the half decade between the 2015 document and the onset of COVID-19 lockdowns in early 2020, there was little evidence of robust local implementation of law enforcement decentralization. A few municipalities, most notably Tianjin, had been experimenting with such decentralization even before 2015, and continued to do so afterwards.[136] That said, these seemed to be exceptions rather than the norm. The norm, to the extent that there was any local implementation at all, was closer to what emerged in Beijing around 2018 and 2019, which was a system called "when subdistricts and townships blow the whistle, governmental agencies must answer" ("jiexiang chuishao, bumen baodao").[137] Under this system, subdistrict governments, upon discovering

133. *See* Mittelstaedt, *supra* note 92.

134. *Id.*

135. *See supra* note 112, at § 2.

136. Tianjin Shi Jiedao Zonghe Zhifa Zanxing Banfa (天津市街道综合执法暂行办法) [Temporary Measures on the Administrative Law Enforcement by Subdistrict Governments of Tianjin Municipality] (promulgated by Tianjin Mun. Gov't, Oct. 1, 2014).

137. Yang Xuecong (杨学聪) & Qian Haojun (覃皓珺), Beijing Tuijin Dangjian Yinling Jiceng Zhili Tizhi Jizhi Chuangxin de Tansuo—Shang (北京推进党建引领基层治理体制机制创新的探索(上)) [*Beijing Exploring the Institutional Innovation of the Party-led Grassroots Governance—Part I*], ZHONGUO GONGCHANDANG XINWEN WANG (中国共产党新闻网) [CPCNEWS.CN] (Dec. 10, 2018),

a problem within their geographical jurisdiction, would "blow the whistle," after which functional agencies such as the urban management bureau would send in their agents to deal with it.[138] While this seemed to give subdistricts some law-enforcement initiative, it was not qualitatively different from their traditional mode of operation, which was to supply local information to higher-level entities, but not to actually oversee or manage substantive law enforcement.

The Beijing system therefore amounted to fairly little substantive change—at most, it put some additional pressure on other agencies to respond expediently to subdistrict whistleblowing. Nonetheless, the central government responded very positively. The Central Commission for Comprehensively Deepening Reforms, the Party's internal policy formulation committee, publicly praised the Beijing government for garnering mass support and solving local nuisances, a rare honor that signaled unusually strong endorsement.[139] Official media right up to the *People's Daily*, the Party's primary newspaper, issued glowing praise,[140]

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http://dangjian.people.com.cn/n1/2018/1210/c117092-30453584.html [https://perma.cc/L96R-777Y].

138. *Id.*

139. Wu Mengda: Beijing Jiang Quanmian Tuikai "Jiexiang Chuishao, Bumen Baodao" (乌梦达:北京将全面推开"街乡吹哨、部门报到") [*Wu Mengda: Beijing Government Plans to Comprehensively Implement "When Subdistricts and Townships Blow the Whistle, Governmental Agencies Must Answer"*], ZHONGHUA RENMIN GONGHE GUO ZHONGYANG RENMIN ZHENGFU (中华人民共和国中央人民政府) [GOV.CN] (Dec. 1, 2018), http://www.gov.cn/xinwen/2018-12/01/content_5345121.htm [https://perma.cc/Q566-YUAZ].

140. *See id.*; *see also* Di Yingna, "Jiexiang Chuishao, Bumen Baodao" (狄英娜: "街乡吹哨、部门报到") [Di Yingna, *"When Subdistricts and Townships Blow the Whistle, Governmental Agencies Must Answer"*], QIUSHI WANG (求是网) [QSTHEORY.CN] (Dec. 10, 2018), http://www.qstheory.cn/dukan/hqwg/2018-12/10/c_1123830167.htm [https://perma.cc/9JAK-3NAK]; Zhu Jingruo et al: "Jiexiang Chuishao, Bumen Baodao" (朱竞若等: 街乡吹哨、部门报到) [Zhu Jingruo et al., *"When Subdistricts and Townships Blow the Whistle, Governmental Agencies Must Answer"*), RENMIN WANG (人民网) [PEOPLE.CN] (Dec. 10, 2018), http://politics.people.com.cn/n1/2018/1210/c1001-30452433.html [https://perma.cc/BG2Q-4E28].

which led to widespread imitation by city governments across the country.[141]

Many other localities did even less. For example, during this period, both Shanghai and Shenzhen introduced local reforms that seemed to expand subdistrict administrative capacity but did not ultimately produce much divergence from the status quo when it came to law enforcement. Shanghai introduced measures in 2015 that gave subdistricts more control over their own personnel and additional resources to monitor neighborhood organization but did not make any explicit delegation of law enforcement authority[142]—none would emerge there until after 2020. In Shenzhen, even by 2019, city-level regulations continued to recognize districts as the lowest-level government with independent law enforcement authority. Subdistricts did have their own law enforcement teams, but these could only perform auxiliary tasks, or handle individual cases as specifically designated by district authorities.[143] Furthermore, contrary to the vision laid out in the 2019 document, the Shenzhen regulations made it very clear

141. Wang Ying, Kunmin Shi Guandu, "Qunzhong Xuyao, Shuji Chuishao, Bumen Baodao" Tupo Jiceng Zhili Pingjing (王颖: 昆明市官渡: "群众需要、书记吹哨、部门报到"突破基层治理瓶颈) [Wang Ying, *Kunming City Guandu District: "When Citizens Have Needs, Party Secretaries Will Blow the Whistle and Governmental Agencies Will Answer" as a Solution to Solve Dilemmas of Grassroots Governance*], YUNNAN WANG (云南网) [YUNNAN.CN] (May 9, 2020), https://m.yunnan.cn/system/2020/05/09/030669015.shtml [https://perma.cc/2X98-UCU5]; Mao Jing, Beijing de Shaosheng, Heyi Chuanbian Quanguo? (毛京: 北京的"哨声"，何以传遍全国?) [Mao Jing, *How Did Beijing's "Whistle" Spread Across the Entire Country?*], SOHU WANG (搜狐网) [SOHU.COM] (Dec. 10, 2018), https://www.sohu.com/a/280813995_99914864 [https://perma.cc/DZ5P-4T23].

142. Guanyu Jinyibu Chuangxin Shehui Zhili Jiaqiang Jiceng Jianshe de Yijian (关于进一步创新社会治理加强基层建设的意见) [Opinions on Further Innovating Social Governance and Enhancing Grassroots Neighborhood Building] (promulgated by CPC Shanghai Mun. Comm. and Shanghai Mun. Gov't, Jan. 5, 2015).

143. Shenzhen Jingji Tequ Chengshi Guanli Zonghe Zhifa Tiaoli (深圳经济特区城市管理综合执法条例) [Regulations on Urban Management and Comprehensive Law Enforcement of Shenzhen Special Economic Zone] (promulgated by the Standing Comm. of Shenzhen People's Cong., promulgated June. 28, 2013, rev'd Aug. 29, 2019), art. 12.

that subdistrict law enforcement teams would report to law enforcement offices at the district level, rather than to subdistrict governments.[144] There is no indication that either city government ever came under any pressure from central authorities for their non-responsiveness.

Clearly, then, prior to the pandemic, central authorities were in no great rush to substantively beef up subdistrict law enforcement capacities and were perfectly happy to let local governments declare "mission accomplished" over what could only be described as baby steps. There clearly was some desire to expand the state's capacity to administratively enforce laws at the grassroots level, but this was balanced against observable reluctance to grant subdistrict governments direct control over additional bureaucratic resources. Had there been no pandemic, the balancing of these considerations may still have led to actual law enforcement "descent" over time, but it almost certainly would have been a slow, drawn-out process. In fact, there was at least some chance that such descension would never have truly materialized beyond perfunctory measures like the Beijing "whistling" reforms. After all, the recent history of Chinese administration is littered with examples of high-level policy rhetoric producing very little substantive change even after a decade or more.[145]

2. Neighborhood Organizations as Social Control Units

For all its ambiguities, the central government's pre-COVID policies on subdistrict law enforcement were practically models of decisiveness when compared to its treatment of neighborhood organizations. In the latter

144. *Id.*

145. Obvious examples include the property tax, Evelyn Cheng, *There's a Chance China Might Finally Put Taxes on Property*, CNBC (Oct. 25, 2021), https://www.cnbc.com/2021/10/25/theres-a-chance-china-might-finally-put-taxes-on-property.html [https://perma.cc/CZ25-Y7PY] (there has been very little further movement since this late 2021 report, and the recent decline in Chinese property values would seem to deter actual implementation), and rural construction land reform, *see* Liu Mingyue & Wang Sangui: Xiangcun Zhenxing de Poju Zhidao, Qi Jiujing Neng Gei Woguo Fazhan Dailai Shenme? (刘明月 汪三贵: 乡村振兴的破局之道，其究竟能给我国的发展带来什么?) [Liu Mingyue & Wang Sangui, *The Key to Rural Revitalization: What Can It Yield to China's Development?*), CAIFU GUANLI (财富管理) [WEALTH MGMT] (Dec. 9, 2022), https://wealthplus.org.cn/2022120910052.html [https://perma.cc/T9MZ-CWRR].

context, pre-2020 policymakers were observably torn between wanting to utilize neighborhood organizations as units of administrative control and fearing the consequences of doing so. While central policies regarding subdistrict law enforcement were at least clear on their own terms—leaving difficult balancing acts to city and district governments—rules and policies on neighborhood organizations sometimes practiced a kind of formal doublespeak.

Like many other authoritarian regimes, the Chinese Party-state has historically adopted a multitude of cooptation and repression strategies to preempt challenges against the government and demobilize potential collective action.[146] By the early 2010s, it had identified neighborhood organizations as a potential first line of defense in this preemption infrastructure and had made an initial push to incorporate them.

The official term for this push was the "grid management system" ("wanggehua guanli xitong"), which first emerged as an administrative experiment in 2004 in a couple of localities and gradually expanded its coverage over the next decade.[147] The system would expand neighborhood-level public service provision but also administratively empower neighborhood organizations in two ways: first, as information collection modules that channeled information about local social unrest to higher levels of government; and second, as dispute resolution agencies to mediate and settle local conflicts in the first instance.[148] Neither of these functions necessarily involved the formal delegation of coercive authority *per se*, but the former function was clearly envisioned as an instrumental prerequisite to the more precise exercise of coercive authority by city, district, or subdistrict governments. Moreover, if local information were to be collected with high levels of granularity and regularity, then it would probably require at least some exercise of coercive authority by neighborhood organizations, if only to ensure information disclosure by private parties—as discussed in Part III, this would become a major policy issue during the COVID-19 crisis.[149]

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146. *See generally* JENNIFER PAN, WELFARE FOR AUTOCRATS: HOW SOCIAL ASSISTANCE IN CHINA CARES FOR ITS RULERS (2020); Rory Truex, *Focal Points, Dissidents Calendars, and Preemptive Repression*, 63 J. CONFLICT RESOL. 839 (2018).

147. *See* Mittelstaedt, *supra*, note 92, at 4-5.

148. *Id.* at 12-13.

149. *Grid Based Management*, CHINA MEDIA PROJECT (Apr. 16, 2021), https://chinamediaproject.org/the_ccp_dictionary/grid-based-management/ [https://perma.cc/J2K6-QCNE].

By the early 2010s, the system covered a number of metropolitan cities,[150] including Beijing and Tianjin, and was widely deemed a success.[151] Satisfied with these results, the central government launched it nationwide in 2015.[152] A policy promulgated by the State Council expressly stipulated that the grid system would be used to consolidate public security resources and information nationwide.[153] Specifically, local governments should use such systems to resolve social disputes and grievances, ideally preemptively, collect all relevant information, and enhance public security in general.[154] This language suggested that neighborhood organizations might eventually assume some of the more formal administrative roles traditionally reserved for higher-level entities, perhaps even some kind of administrative law enforcement capacity.

As noted above, experimental versions of the grid management system emphasized its role in both public service provision and social order maintenance.[155] By 2015, however, the central government had shifted visibly towards emphasizing the latter. As a 2015 State Council policy explicitly states, "the construction of a public security prevention and control network at the neighborhood level" was the priority of this

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150. Shanghai Shi Chengshi Wangehua Guanli Banfa (上海市城市网格化管理办) [Measures on Urban Grid Management of Shanghai Municipality] (promulgated by Shanghai mun. gov't, Oct. 1, 2013); Guanyu Quanmian Tuijin Shehui Jianshe "Zhiwang" Gongcheng de Shishi Fangan (Shixing) (关于全面推进社会建设"织网工程"的实施方案（试行）) [Temporary Implementation Measures on Comprehensively Advancing Social Development's "Grid Making Project"] (promulgated by the Gen. Off. of CPC Shenzhen Comm. and the Gen. Off. of Shenzhen City Gov't, Dec. 16, 2013).

151. Wang Ming & Yang Li (王名, 杨丽), *Beijing Wanggehua Fuwu Guanli Moshi Yanjiu* (北京市网格化服务管理模式研究) [*A Research about Beijing Government's Grid Service Management System*], ZHONGUO XINGZHENG GUANLI (中国行政管理) [CHINA PUB. ADMIN.] no.2 (2012).

152. Guanyu Jiaqiang Shehui Zhian Fangkong Tixi Jianshe de Yijian (关于加强社会治安防控体系建设的意见) [Opinions on Enhancing the Construction of a Public Security System] (promulgated by the Gen. Off. of the State Council, Apr. 13, 2015), 2015 ST. COUNCIL GAZ. 12 (2015).

153. *Id.*

154. *Id.*

155. *See* Mittelstaedt, *supra* note 92, at 4, 10.

reform.[156] Scholars have pointed out that, in practice, although employees of the grid system were nominally evaluated on both dimensions, evaluation criteria for public service provision was often vague and unwieldy, whereas criteria for order maintenance used clear, specific, and results-oriented metrics.[157] The 2015 State Council policy further laid out an administrative goal of achieving nation-wide grid coverage by 2020.[158]

Over the next few years, however, central authorities seemed to have second thoughts on how, exactly, to use the grid system.[159] A series of central policy documents, culminating in a 2019 decision at the Fourth Party Plenum [160] and an early 2020 government work report [161] clearly deemphasized the public security functions of neighborhood organizations in favor of their more traditional roles as resident self-governance entities and public service suppliers. In fact, language on public security vanished entirely from some of these documents.

These changes came at around the same time that other central-level policy documents doubled down on the non-administrative nature of neighborhood organizations. A 2017 joint opinion from the CCCPC and the State Council emphasized that, while neighborhood organizations should still be subject to "the Party's leadership"—in fact, such leadership should be strengthened wherever possible—they were not to be used as extensions of district or subdistrict governance.[162] The opinion directed those entities to "clarify the boundaries" between their own administrative duties and what kind of "assistance" neighborhood organizations were supposed to provide.[163]

While this seemed to leave open the window for using neighborhood organizations in some kind of administrative capacity, the opinion further

156. *See* ST. COUNCIL GAZ., *supra* note 152.

157. *See* Mittelstaedt, *supra* note 92, at 12-13.

158. *See* ST. COUNCIL GAZ., *supra* note 152.

159. *See* Mittelstaedt, *supra* note 92, at 8.

160. Dang de Shijiu Jie Si Zhong Quanhui Jueding (党的十九届四中全会《决定》) [The Decisions of the Fourth Plenum of the Nineteenth National Congress of the CCP] (promulgated by the Cent. Comm. of the CCP, Oct. 31, 2019), art. 4 § 9.

161. 2020 Nian Zhengfu Gongzuo Baogao (2020 年政府工作报告) [*Work Report of the Government 2020*], http://www.gov.cn/zhuanti/2020lhzfgzbg/index.htm [https://perma.cc/EVX5-CJUP].

162. *See* ST. COUNCIL GAZ., *supra* note 110.

163. *Id.*

stipulated that they were *not* to be used for administrative law enforcement and urban management purposes.[164] Furthermore, the overall direction of local governance should be to "reduce the burden" ("jianfu") placed on neighborhood organizations.[165] The document's overall hostility towards the utilization of neighborhood organizations as social control units was unmistakable, and seemed to synergize with the revised vision of "grid management" as primarily a public service supplier and neighborhood self-governance facilitator.

Because of all this, as China stood on the precipice of full-blown pandemic management in the spring of 2020, there seemed to be quite a bit of ambiguity, even uncertainty, emanating from the top echelons of the Party-state on how best to utilize neighborhood organizations. To a large extent, such functional ambiguity had always existed in neighborhood organizations since their initial creation. As discussed above, neighborhood organizations emerged after the dissolution of the *danwei* system and had always operated in a sort of gray zone between full blown administrative control and resident self-governance. Their officers were elected by residents, but only under the usually robust supervision and control of higher-level governments.[166] They provided public services, often in a top-down, bureaucratically planned fashion, but also engaged in genuine consultation with residents.[167] In practice, they wielded very little coercive authority, if any at all, but were not necessarily forbidden from doing so by the legal statutes and regulations that empowered them.[168]

All in all, they seemed to represent the dominant attitude towards governance that had existed in pre-2012 political regimes: allow relatively large amounts of *de facto* socioeconomic freedom and keep coercive state power away from the everyday lives of most individuals, but also maintain the possibility of governmental intervention if political risks ever arise. This created, initially by design, some amount of legal and regulatory ambiguity on the precise administrative status of neighborhood organizations.

Read against this institutional status quo, the series of policy moves made over the previous decade were an attempt at clarifying these ambiguities in the direction of administrative expansion, followed by some buyer's remorse. Apparently wary of the political complications that might

164. *Id.*

165. *Id.*

166. *See supra* text accompanying notes 55-58.

167. *See* ST. COUNCIL GAZ., *supra* note 66.

168. *See id.*

come with expanding social control mechanisms to such an extent—more on these in Part III—the central government shifted back to its traditional focus on public service provision. Carrots were again deemed politically less risky than sticks, and the specific administrative powers of neighborhood organizations were again left somewhat ambiguous.

C. Reducing Principal-Agent Problems

What, exactly, were the political concerns that led the central government to these somewhat ambiguous positions on urban local governance? The assortment of policy documents discussed above contain numerous clues on their own political logic, which this Section excavates. Most of these documents contain two different kinds of provisions: first, those that lay out the external, society-facing functions of subdistrict governments and neighborhood organizations, and second, those that discuss their internal administration, particularly their relationship to higher-level authorities. The previous two Sections have focused on the former, but it is the latter that provides deeper insights into central-level reservations over power delegation and administrative expansion.

These reservations fall into two groups, both focusing on the Center's mistrust of local officials and cadres: first, central authorities were visibly worried that subdistricts and neighborhood organizations simply could not do a good job even if they tried—that they were overburdened, poorly trained, or simply too corrupt. Second, they were concerned about losing internal control—about local agents seizing too much administrative discretion and ignoring higher-level directives. Clearly, the former reservation tends to reinforce the latter: the less confident you are about your local agents' capacities, the more worried you are that empowering them will lead to loss of top-down control.

1. Capacities

Concerns about local administrative capacity came in two different varieties. The first category includes a number of reforms aimed at reducing the workload of subdistrict and neighborhood organizations. In particular, 2019 was designated a "local government workload reduction year" by the central government—right before the onset of COVID-19 threw any notion of "workload reduction" to the wind—and saw a nationwide campaign to

make life somewhat easier for local administrators.[169] The second set of concerns targeted local corruption and power abuses, with the unspoken message being that, unless local officials cleaned up their act, they simply could not be trusted with more responsibilities.[170]

Around 2015, the State Council initiated a series of policies to combat rampant bureaucratic red tape at all levels of government. A speech by Premier Li Keqiang made much of a prototype case where the citizen tried to prove his relationship with his own mother for travel authorization purposes, but found that proving such a relationship was an insurmountable challenge.[171] At around the same time, the State Council issued a policy directive on "Streamlining Administration and Delegating Powers to Lower Levels."[172] Echoing some of the law enforcement delegation directives discussed above, this document encouraged city- and district-level governments to delegate more powers to lower-level administrators, so that laws and policies could actually be implemented at

169. Guanyu Jiejue Xingshi Zhuyi Tuchu Wenti Wei Jiceng Jianfu de Tongzhi (关于解决形式主义突出问题为基层减负的通知) [Announcement on Resolving Formalist Problems and Lifting Grassroots Governments' Burdens] (promulgated by the Gen. Off. of the CCCPC, Mar. 11, 2019).

170. Wei Jiceng Jianfu, Xi Jinping Zheyang Qiangdiao (为基层减负, 习近平这样强调) [*Lifting Grassroots Governments' Burdens: This is What Xi Jinping Emphasizes*], XINHUA WANG (新华网) [XINHUA NEWS] (Jan. 20, 2022), http://www.news.cn/politics/leaders/2022-01/20/c_1128281668.htm [https://perma.cc/2TEL-ZHMW].

171. "Nima Shi Nima" Xuyao Zhengming me ("你妈是你妈" 需要证明么) [*"Is Your Mom Your Mom": Does It Need to Be Proved*], ZHONGYANG ZHENGFU MENHU WANGZHAN (中央政府门户网站) [GOV.CN] (May 22, 2015), http://www.gov.cn/zhuanti/2015-05/22/content_2866672.htm [https://perma.cc/9FNB-LWWW]. One author of this article encountered enormous challenges when trying to prove her relationship with her mother and almost abandoned the already-scheduled international travel for this exact reason.

172. Guanyu Yinfa 2015 Nian Tuijin Jianzheng Fangguan Jiehe Zhuanbian Zhengfu Zhineng Gongzuo Fangan de Tongzhi (关于印发 2015 年推进简政放权放管结合转变政府职能工作方案的通知) [Announcement on the Dissemination of 2015 Work Plan Regarding Administrative Streamlining, Power Delegation, Government Service Improvement, and Transformation of Governmental Functions] (promulgated by the State Council, May 12, 2015), 2015 ST. COUNCIL GAZ. 15 (2015).

the very local level.[173] It also warned, however, that, to be feasible under current resource constraints, such delegation needed to be paired with the significant reduction of traditional bureaucratic burdens.[174]

By 2019, the "local government workload reduction year," the CCCPC had begun expressing greater skepticism that local governments should, in fact, be delegated more duties, given their preexisting workloads.[175] It asked all levels of government to formulate a "power and responsibility list" (*quanze qingdan*), with the express goal of preventing superior governments from shifting their own responsibilities and tasks to their grass-root counterparts. In particular, central authorities attempted to prevent higher levels of government from assigning a number of information collection responsibilities to grass-root bureaucracies—which, if the reader will recall, was actually the primary goal of the "grid management system" reforms pursued before 2015. To comply with the center's directive, many metropolitan cities reduced information inquiries sent down to subdistricts and neighborhood organizations—which almost certainly would have reduced their ability to monitor local society had the pandemic not forced a full-blown escalation of state control.[176]

In these developments, we can detect a subtle shift in the central government's thinking between 2015 and 2019: in 2015, its position was still, more or less, "let us reduce meaningless tasks so that local administrators can focus on these new tasks we would like to delegate to them." By 2019, however, it seemed less confident that more expansive delegation was actually the correct move—at least to the point where it seemed quite prepared to slow the pace of delegation and potentially reassess.

The deeper issue seemed to be that the central government simply did not trust the professional quality of local administrators. As noted above, urban management officers (*chengguan*) are generally responsible for most subdistrict-level law enforcement activities, but are also some of the most

173. *Id.*

174. *Id.*

175. *See* General Office of the CCCPC, *supra* note 169.

176. Yinfa Guanyu Jiejue Xingshi Zhuyi Tuchu Wenti Wei Jiceng Jianfu de Ruogan Cuoshi de Tongzhi (印发《关于解决形式主义突出问题为基层减负的若干措施》的通知) [Announcement on the Publication of Several Measures to Resolve the Formalist Problems and Lift Grassroots Governments' Burdens] (promulgated by the Gen. Off. of the CPC Beijing Mun. Branch, May 16, 2019).

publicly maligned agents in the entire bureaucracy.[177] In response, the Xi-regime embarked on a large-scale campaign to reduce the arbitrariness of local law enforcement activity. In 2014, the fourth Party Plenum laid out plans for a thorough revamping of the urban law enforcement system,[178] and made the professionalization of the street-level administrative law enforcement force a top priority.[179]

This entailed several different aspects: first, the Party leadership aimed to reduce the number of "temporary workers." In a number of infamous incidents where street-level administrators abused their powers, "temporary workers" (*linshi gong*) took the blame for using excessive force or issuing unreasonable penalties.[180] The new plan would prevent the count of "temporary officers" from exceeding that of official *chengguan* officers.[181] It also forbade "temporary officers" from conducting certain types of law enforcement activities: most importantly, they were no longer allowed to conduct penalty issuance or confiscation.[182]

Another, arguably more important, aspect was simply to improve law enforcement officers' legal knowledge and training. The Party leadership directed the state apparatus to improve the screening process for hiring *chengguan* officers, enhance their professional training prior to commissioning, organize qualification exams for those who had completed the training, and draft standard operating procedures for law enforcement activities.[183] These measures ran parallel to other reforms, issued roughly simultaneously, in the court system and procuratorate that aimed to boost

177. Dou Hanzhang: Feichu Chengguan Shuo Shizai Wudao Yulun (窦含章: "废除城管说"是在误导舆论) [*Dou Hanzhang: Abolishing urban administrative enforcement authorities is misleading the public opinion*], ZHONGGUO XINWEN WANG (中国新闻网) [CHINA NEWS] (June 17, 2009), https://www.chinanews.com.cn/gn/news/2009/06-17/1737174.shtml [https://perma.cc/CFM9-QLDZ].

178. *See* Central Committee of the CCP, *supra* note 160.

179. *See* ST. COUNCIL GAZ., *supra* note 121.

180. Murong Xuecun, *China's Temporary-Worker Ploy*, N.Y. TIMES (Jan. 22, 2014), https://www.nytimes.com/2014/01/23/opinion/murong-chinas-temporary-worker-ploy.html [https://perma.cc/24F9-VTMU].

181. *See* ST. COUNCIL GAZ., *supra* note 121.

182. *Id.*

183. *Id.*

legal training for judges and prosecutors.[184] "Governing the country according to law" became a general slogan that permeated the entire bureaucracy, and drove serious legal professionalization efforts almost everywhere.[185]

2. Internal Control

The central government's lack of full commitment also seemed to be driven by the fear of losing internal control: that local agents, once empowered with greater authority and broader duties, would gain functional independence from their superiors, and therefore fragment government power. As a result, throughout the pre-COVID era, policy language on strengthening subdistrict governments or neighborhood organizations was consistently paired with language on the need to strengthen top-down oversight over them. As with any internal control mechanism inside the Chinese government, this could either work through the "state" side of the organization structure, or the "Party" side of it, and heavy use was made of both.

For example, even as central policies were instructing city and district governments to delegate law enforcement authorities to subdistrict governments in 2015 and 2019, those very same policy documents also emphasized the need for city and district governments to strengthen oversight mechanisms over delegated powers and warned against over-simplified, purely results-oriented oversight.[186] Furthermore, the appeal of local experiments like Beijing's aforementioned "whistle-blowing" reform to central authorities may very well have been their ability to maintain greater control over local agents: by using subdistrict governments as, effectively, surveillance agents, but still placing substantive law enforcement powers in higher-level entities, the experiments alleviated at least some of the principal-agent problems with local empowerment.[187]

Similarly, policy documents that pushed for the strengthening of neighborhood organizations through the "grid system" never failed to caution that district and subdistrict governments would simultaneously have to "strengthen" their oversight and leadership of neighborhood

184. *See* Zhang & Ginsburg, *supra* note 77, at 324-31.

185. *Id.* at 358.

186. *See* ST. COUNCIL GAZ., *supra* note 121 and ST. COUNCIL GAZ., *supra* note 112.

187. *See* ST. COUNCIL GAZ., *supra* note 112.

organizations for the system to work.[188] To the extent that this conflicted with the formal legal characterization of neighborhood organizations as communal self-governance entities, these documents seemed to recognize a functional tradeoff between self-governance and administrative empowerment: neighborhood organizations could only be entrusted with new social-control powers if they were subject to tighter top-down governmental control. It was therefore no coincidence that the reemphasis of their self-governing nature in government documents from 2017 to 2019 was paired with less support for using them as social control instruments.[189]

Intra-Party control over local administrators was another theme that these documents consistently emphasized. As many have noted, Xi's "governing the country according to law" campaign has, from its inception in 2013-14, attempted to give the Party apparatus a more formalized role within the Party-state: to explicitly recognize its functions in legal documents, including the Chinese Constitution itself, to merge its offices with functionally similar ones inside the state apparatus, and, in particular, to give Party offices a formal leadership role within the law enforcement and anti-corruption apparatuses.[190]

Within this framework, "Party leadership" naturally applied to subdistrict law enforcement activity as well: for example, the very first substantive sentence of the 2019 CCCPC/State Council directive on local law enforcement, after its preamble, stated the need to "strengthen the leadership roles of township and subdistrict Party committees."[191] This was not limited to law enforcement activity, but also covered the provision of any public service: "all public service resources that are supplied to the local level should primarily be implemented through township, subdistrict, village, and neighborhood organization *Party organizations* (emphasis added)."[192]

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188. *See* ST. COUNCIL GAZ., *supra* note 121 and ST. COUNCIL GAZ., *supra* note 112.

189. *See* Xuefeng & Shuyan, *supra* note 109; ST. COUNCIL GAZ., *supra* note 112.

190. XIANFA (2014); Guanyu Quanmian Tuijin Yifa Zhiguo Ruogan Zhongda Wenti de Jueding (关于全面推进依法治国若干重大问题的决定) [Decision on Comprehensively Ruling the Country According to the Law] (promulgated by the Standing Comm. of the CCCPC, Oct. 23, 2014); Ling Li, *"Rule of Law" in a Party-State: A Conceptual Interpretive Framework of the Constitutional Reality of China*, 2 ASIAN J. L. SOC'Y 93, 107-9 (2015).

191. *See* ST. COUNCIL GAZ., *supra* note 112.

192. *Id.*

The major legal advantage of implementing local control through the Party was that, unlike the state apparatus, the Party is not legally constrained by the "self-governing" nature of villages or neighborhood organizations. State organs cannot give direct orders to those entities without creating at least some tension between the nominal legal recognition of self-governance and the reality of top-down governance, but Party entities can be as hierarchical as they need without interacting with the laws that created neighborhood organizations, none of which had anything explicit to say about Party administration.

The Party structure therefore quickly became the central government's instrument of choice as it attempted to ramp up control over local administrators, particularly those at the neighborhood organization level. These concerns were front and center when, in 2017, Zhao Leji, then head of the Party's organization department, chaired the first national conference on grassroots Party-building in the post-Mao period.[193] Zhao spoke for the entire Party leadership when he specified that the purpose of grassroots Party-building was to enhance the Party's political legitimacy through the improvement of urban local governance.[194]

Zhao's speech also pointed to other important functions that the Party apparatus could serve, most notably in the realm of internal bureaucratic control. For example, Zhao suggested the Party apparatus might be able to overcome the "serving two masters problem" that had traditionally plagued local administration because it could cut across bureaucratically fragmented local regulatory authorities and consolidate their activity.[195] He therefore stressed that "Party organizations at the city, district, subdistrict, and neighborhood community levels should be better connected," and function within a unified command structure.[196] Shortly thereafter, the Central Committee of Communist Party of China (CPCCC) issued a somewhat critical assessment of the organizational coherence of local Party

193. Zhao Leji: Chuxi Quanguo Chengshi Jiceng Dangjian Gongzuo Jingyan Jiaoliu Zuotan Hui, Hanzheng Chuxi Bing Zhici (赵乐际出席全国城市基层党建工作经验交流座谈会 韩正出席并致辞) [Zhao Leji, *Attending the National Work Experience Exchange Conference on Urban Grassroots Party-building, Han Zheng Attending and Giving a Speech*], GONGCHANDANG XINWEN WANG (中国共产党新闻网) [CPCNEWS.CN] (July 20, 2017), http://cpc.people.com.cn/n1/2017/0720/c64094-29417483.html [https://perma.cc/W54X-7QVA].

194. *Id.*

195. *Id.*

196. *Id.*

apparatuses in 2019, and ordered them to build "systemic interaction structures" between city, district, subdistrict, and neighborhood organization Party organizations.[197]

At the same time, the Xi regime also invested in harsher forms of top-down control. Between 2012 and 2018, it pushed through perhaps the most expansive anti-corruption campaign in recent Chinese history, leading to the censure or prosecution of several million officials and Party cadres by 2019. Local governments were some of the hardest hit entities: by 2017, some 1.3 million officials at the subdistrict or township level had been censured.[198] As Xi himself stated in a 2016 speech, even the smallest local abuses of power could become serious threats to the Party's rule—and therefore the enhancement of anti-corruption work must be a constant priority of local governments.[199] It would apparently take some time before these entities and their administrative capacities could earn the center's full trust. Until that happened, the center would be somewhat less than fully comfortable with empowering them.

All in all, the central government was fairly open about its thinking on local government expansion: it clearly wanted the greater social control that such expansion could supply but would not allow it to come at the cost of weaker control over local agents—who were, in its view, less professional, and susceptible to corruption and abuse of power, and already overburdened. There were no easy ways out of this conundrum: the center could invest in professional training, anti-corruption, and tighter top-down oversight, but all of these measures required enormous amounts of time, human attention, and money. Small wonder, then, that in the course of

197. *See* General Office of the CCCPC, *supra* note 11.

198. Li Yu & Da Yang, Kanxiang Jiceng de Fanfu Dadao: 134 Wan Ganbu Shoufa (李鱼 达扬: 砍向基层的反腐大刀: 134 万干部受罚) [Li Yu & Da Yang, *The Anti-corruption Sword Aiming at Grassroots officials: 1.34 Million Officials are Sanctioned*], DW NEWS (Aug. 10, 2017), https://www.dw.com/zh/%E7%A0%8D%E5%90%91%E5%9F%BA%E5%B1%82%E7%9A%84%E5%8F%8D%E8%85%90%E5%A4%A7%E5%88%80134%E4%B8%87%E5%B9%B2%E9%83%A8%E5%8F%97%E7%BD%9A/a-40865611 [https://perma.cc/89WX-6MBL].

199. Dai Nan, Tuijin Jiceng Zhengfeng Fanfu, Gei Qunzhong Gengduo Huode Gan (戴南: 中纪委机关报谈基层反腐: "微腐败"也可能造成"大祸害") [Dai Nan, *Advancing Anti-corruption Efforts at Grassroots Levels, Providing Citizens with More Senses of Gain*], JIEMIAN XINWEN (界面新闻) [JIEMIAN.COM] (Feb. 4, 2016), https://www.jiemian.com/article/534301.html [https://perma.cc/HX9X-54NJ].

normal governance before 2020, these investments could only be made somewhat hesitantly, with slow and uneven progress, and even the occasional reversal. Had the COVID-19 pandemic never occurred, this state of affairs likely would have persisted for some time.

III. The Institutional Consequences of COVID-19

The onset of the pandemic in the early months of 2020 changed everything. Combatting a deadly and highly contagious virus, governments across the globe faced almost unprecedent pressures to provide agile and responsive administrative capacity at grassroot levels. Some managed to do this for a while, but eventually backed off in the face of escalating social unhappiness.[200] Others held on for longer, but also began to roll back governmental control once the more transmissible and less deadly Omicron variable emerged.[201] In the Chinese context, however, the pandemic became a critical juncture that produced a massive and likely permanent expansion of street-level bureaucracies' jurisdiction and authority.

This Part traces these expansionary developments at three different levels: first, it summarizes the primary architecture of China's COVID-control apparatus and the unprecedented pressures it put on local governments, especially on urban local governments. Second, it lays out the law enforcement powers that were permanently granted to subdistrict governments as part of the governmental response to these pressures. Third, it summarizes the full-blown administrative conversion of neighborhood organizations into social control command centers.

A. COVID-19 and Local Governance

In the first several months of the pandemic, China was more or less in the same boat as most populous countries: Within a month after its initial detection, COVID-19 cases appeared in every single province in China,[202] and carried with them a mortality rate more than ten times higher than the

200. *E.g.*, the United States.

201. *E.g.*, Hong Kong, Singapore, etc.

202. Bill Chappell, *Coronavirus Has Now Spread to All Regions of Mainland China*, NPR (Jan. 30, 2020), https://www.npr.org/sections/goatsandsoda/2020/01/30/801142924/coronavirus-has-now-spread-to-all-regions-of-mainland-china [https://perma.cc/Y5VJ-YP6B].

seasonal flu.[203] The initial response in Wuhan, as many have documented, was confused and slow, but by early 2020 the entire governmental apparatus had sprung into action.

As in most other countries, the government's response included the trifecta of lockdowns, contact tracing, and travel restrictions,[204] but the implementation of these measures was especially difficult in a country as large and densely populated as China. The only entities in the Party-state that could possibly muster the necessary level of individualized proximity to the general population were the lowest level of local administration—subdistricts and townships, along with the neighborhood organizations and villages within their jurisdiction—and even for them this would be an unprecedented challenge. The first order of business was, therefore, to give local bureaucracies the resources, authority, and logistical support they needed to perform these coercive and informational tasks.

On January 29, 2020, six days after the government imposed a lockdown on Wuhan where the first COVID-19 outbreak emerged, central authorities issued two sets of emergency orders to grassroot agents nationwide to implement a series of COVID-related public health measures.[205] One set targeted subdistrict and township governments. They required each subdistrict government to formulate work plans for COVID-19 prevention and contingency plans for breakouts. For subdistricts without reported COVID-19 cases, their administrators were ordered to actively monitor their communities for possible transmission; whereas in subdistricts with active COVID-19 cases, officials were ordered to supply additional resources and administrative support for any local community with active cases.[206] To prevent any administrative evasion and local blame-shifting, the central government also explicitly pinned these responsibilities on specific

203. Lisa Maragakis, *COVID-19 vs. the Flu*, JOHNS HOPKINS MED. (July 29, 2022), https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/coronavirus-disease-2019-vs-the-flu [https://perma.cc/Z7BF-RTAN].

204. Dali L. Yang, *China's Zero-COVID Campaign and the Body Politic*, 121 CURRENT HIST. 203 (2022).

205. Guanyu Jinyibu Dongyuan Chengxiang Shequ Zuzhi Kiazhan Xinxing Guanzhuang Bingdu de Feiyan Yiqing Fangkong Gongzuo de Jinji Tongzhi (关于进一步动员城乡社区组织开展新型冠状病毒感染的肺炎疫情防控工作的紧急通知) [Emergency Announcement on Further Mobilization of Urban and Rural Neighborhood Organizations to Control COVID-19 Pandemic] (promulgated by the Ministry of Civi. Affs. and the Nat'l Health Comm'n, Jan. 29, 2020).

206. *Id.*

subdistrict officials and their departments.[207] This responsibility system later proved to be instrumental to China's entire Zero-COVID apparatus: with their job evaluations on the line, subdistrict officials were usually fully motivated—arguably over-motivated—to carry out their pandemic-prevention responsibilities.[208]

The other set of tasks targeted neighborhood organizations. If a direct central government order to subdistrict and township governments was already unusual, the central government's designation of neighborhood organizations as the central administrative entity in the war against COVID-19 was truly paradigm shifting. As noted in Part II, as recently as 2019, the central government had showed much ambivalence towards the role of neighborhood organizations: while it had sometimes expressed a desire to treat neighborhood organizations as an outgrowth of its bureaucratic hierarchy in the realm of social control, it dialed down policy language to this effect between 2017 and 2019.

The pandemic removed any functional ambiguity on this front. The January 29 orders clearly signaled that neighborhood organizations were to be utilized as direct extensions of the bureaucratic system. The majority of the orders were in fact directed towards them: first, mobilizing resources to prevent future COVID-19 outbreaks; second, contact tracing, including the tracking of individuals with a domestic travel history and the mandatory registration of individuals and vehicles who had visited the neighborhood; third, the mandatory daily reporting of COVID-related statistics to upper-level governments; fourth, education of local residents about COVID; fifth,

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207. *Id.*

208. *See, e.g.*, Zai Yiqing Fankong Douzheng Yixian Chade Biancai, Henan Kaizhan Zhuanxiang Kaohe Jili Ganbu Dandang Zuowei (在疫情防控斗争一线查德辨才——河南开展专项考核激励干部担当作为) [*Finding the Talent at the Frontier of COVID-19 Control: Henan's Special Initiative to Evaluate and Incentivize Officials' Performance*], BAIDU (百度) [BAIDU.COM] (Sept. 14, 2020), https://baijiahao.baidu.com/s?id=1677787548779670136&wfr=spider&for=pc [perma.cc/9HEP-UTF3]; Qinghai, Jiang Yiqing Fangkong Gongzuo Naru Niandu Kaohe, Ming Zhongdian Ya Zeren, Jian Huanjie Ti Xiaolv (青海:将疫情防控工作纳入年度考核 明重点压责任 减环节提效率) [Qinghai, *Incorporating COVID-19 Control into Officials' Annual Evaluation, Clarifying Key Tasks, Pinning Down Responsibilities, Simplifying Procedures, and Improving Efficiency*], GONGCHAN DANGYUAN WANG (共产党员网) [12371.CN] (Feb. 20, 2020), https://www.12371.cn/2020/02/20/ARTI1582164451723360.shtml [https://perma.cc/8EGZ-ZMTR].

sanitation and disinfection of neighborhood facilities; and sixth, providing social assistance for quarantined individuals and their elderly relatives. While the third to sixth tasks were perhaps somewhat compatible with neighborhood organizations' traditional role as public service providers and occasional information gatherers, the first and especially second tasks would require them to directly exercise coercive powers over individual residents.

By late February, the pandemic had been brought under control in most provinces, and the country had largely resumed its normal economic and social life by the late spring. Understanding that the initial triumph over COVID-19 was contingent on the government's extraordinary public health measures, the central government kept its foot on the gas. On April 14, 2020, it issued another policy directing local governments to continue to perfect their COVID-19 prevention measures.[209] This provided even more detailed instructions for neighborhood organizations and broke down COVID prevention tasks with much more granularity.[210] By this point, the use of neighborhood organizations for fully coercive tasks like lockdowns and quarantines had become completely routine.

The April 14 policy took further steps to institutionalize neighborhood organizations as basic bureaucratic units. For instance, it dictated the establishment of a joint task force on COVID-19 prevention within each neighborhood community by mandating the neighborhood party branch to lead and the urban resident committee to organize and implement its COVID-prevention mechanism. [211] Such mandates effectively put neighborhood organizations into the same administrative boat as subdistrict governments: they were now officially responsible for containing COVID-19 outbreaks at the first instance, and any failure in preventing a breakout could lead to administrative censure of corresponding personnel.[212] At the same time, the April 14 policy also supplied neighborhood organizations with more resources.[213] It mandated

209. Xinguan Feiyan Yiqing Shequ Fangkong yu Fuwu Gongzuo Jingzhunhua Jingxihua Zhidao Fangan (新冠肺炎疫情社区防控与服务工作精准化精细化指导方案) [Working Guidelines on Improving the Accuracy and Granularity of Community-Level Pandemic Control and Services] (promulgated by the Ministry of Civ. Affs. and the Nat'l Health Comm'n, Apr. 16, 2020).

210. *Id.*

211. *Id.*

212. *Id.*

213. *Id.*

the "descent of COVID-prevention resources and manpower to neighborhood organizations," "moving the COVID prevention frontier forward to neighborhood organizations," "enhancing the grid system for pandemic control," and "providing COVID-related statistics to neighborhood organizations."[214]

By early 2022, neighborhood organizations had arguably become the primary focal points of Chinese governmental power. Most importantly, they were primarily responsible for implementing the infamous Zero-COVID policy that subjected every urban resident to everyday monitoring and control by the state.

The centerpiece of this policy was the ubiquitous "health code" system. Through smartphone apps like Wechat, each province issued every individual within its borders a unique health code linked to her personal identification number, which tracked the individual's COVID-19 risk level based on her travel history.[215] A green code meant that a person had not interacted with any infected person and was free to travel. In contrast, individuals with red codes—issued to anyone with a positive test result—or yellow codes—issued to anyone who had physically interacted with an infected person—were forbidden to travel and usually placed under quarantine.[216] To enter any public space or office building, use any transportation service, or enter any residential compound, one had to scan the venue's health code to register her visitation/movement, which allowed the government to effectively trace individual movement down to within a city block at almost any time.[217]

This was, by far, the most powerful individual movement tracking system ever created by a modern Chinese government, and it placed an enormous amount of coercive power into the hands of neighborhood organizations. First and foremost, they now directly monitored local residents' travel histories and activities, and were responsible for enforcing

214. *Id.*

215. Almond Li, *Explainer: China's COVID-19 Health Code System*, HKFP (July 13, 2022), https://hongkongfp.com/2022/07/13/explainer-chinas-covid-19-health-code-system/ [https://perma.cc/83CC-QZWP].

216. *Id.*

217. Haiqing Yu, *Living in the era of codes: a reflection on China's health code system*, BIOSOCIETIES 1, 9 (2022)

health code scanning rules against anyone who entered their premises.[218] They were also responsible for more detailed contact tracing beyond what the health code system inherently produced. For example, they regularly had to contact individuals who had been to higher-risk venues, or who had recent domestic or international travel history, to confirm their health status.[219] They were also responsible for confirming the health status of anyone who had purchased Tylenol, Ibuprofen, and antigen COVID-19 tests—the government required individuals to report their personal identification number when purchasing these medical supplies.[220]

Second, once an initial assessment of COVID-19 infection risk had been made, neighborhood organizations also had considerable discretion to determine whether additional measures were needed in any individual case. For example, if it had identified an individual who had been to the same grocery store as a confirmed COVID-19 case, the neighborhood organization could issue a "pop-up" (tanchuang) on that person's health code.[221] This would limit her capacity to travel freely, and she would usually be subject to additional testing or quarantine requirements before her health code could be restored to green: she might have to test daily for three consecutive

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218. Beijing: Geren Bu Peihe Saoma Chayan, Zaocheng Yanzhong Houguo de Zhui Xingze (北京：个人不配合扫码查验，造成严重后果的追刑责) [*Beijing: An Individual Refusing to Scan Health Code and Comply with COVID Procedures Will Be Subject to Criminal Prosecution if His Refusal Causes Severe Consequence*], Beijing Ribao (北京日报) [Beijing Daily], (June 7, 2022), https://ie.bjd.com.cn/5b5fb98da0109f010fce6047/contentShare/5b5fb9d0e4b08630d8aef954/AP629f33a0e4b0fbd054ec7c61.html [https://perma.cc/A2YC-2HKB].

219. *See id.*

220. Wu Tingting: 1yue 23ri Qi, Goumai "Silei Yaopin" Wubi Saoma Dengji Xinxi (吴婷婷: 1 月 23 日起，购买"四类药品"务必登记信息) [*Starting from January 23, Purchasing Four Types of Medication Requires Information Registration and Health Code Scanning*], Zhongguo Wang (中国网) [China.com] (Jan. 24, 2022), http://guoqing.china.com.cn/2022-01/24/content_78007227.htm [https://perma.cc/8SED-YJ3E].

221. Beijing Jiankangbao Tanchuang Ruhe Jiechu: Wulei Qingkuang Yitu Dudong (北京健康宝弹窗如何解除? 五类情况一图读懂) [*How to Get Rid of the Pop-Up on Your Beijing Health Code? A Step-by-Step Guide to Disable Five Types of Pop-Ups*], Zhonghua Renmin Gonghe Guo Zhongyang Renmin Zhengfu (中华人民共和国中央人民政府) [Gov.cn] (May 6, 2022), http://www.gov.cn/xinwen/2022-05/06/content_5688870.htm [https://perma.cc/2SCM-KQWW].

days, or home quarantine—a surveillance camera might be installed at her door by the neighborhood organization in this case, or, in the most extreme case, quarantine at a centralized facility for two weeks.[222]

Neighborhood organizations were given enormous latitude and discretion in the employment of such measures—for the obvious reason that no other government entity could regularly make these localized decisions with enough precision.[223] Over time, this led to concerns about the accountability and oversight of these organizations, but such concerns went largely unaddressed while the entire Party-state apparatus was focused on COVID-19 prevention.[224]

Finally, neighborhood organizations were in charge of imposing and enforcing neighborhood lockdown orders, and they were able to mobilize resources from other government branches to fully implement these drastic measures—nominally used as a last resort but used with increasing scale and regularity as the Omicron variant became dominant in 2022. Under a typical lockdown, the neighborhood organizations would install barrier tapes and have designated patrol personnel to prevent breaches.[225] Such coercive measures would have been unthinkable in pre-pandemic times, and unsurprisingly, not everyone complied. When confronting individuals

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222. Li Hua et al., Bei Jiama Jujia Geli Haibei Anzhuang Menci, Qian Faguan Jiaokeshu Shi Weiquan Chenggong (李华等: 被加码居家隔离还被安装门磁，前法官教科书式维权成功) [*After Being Subject to Arbitrary Home Quarantine and Installation of Electronic Monitoring, a Former Judge Advocated for His Rights Successfully*], TENGXUN WANG (腾讯网) [QQ.COM] (Nov. 26, 2022), https://new.qq.com/rain/a/20221126A05UIJ00 [https://perma.cc/HT2V-LEVG].

223. *See id.*

224. Zou Zhenjie & Wu Simin, Zhuanjia: Fu Wuma Shijian Shexian Quanli Lanyong, Zhuize You Mingque Falv Yiju (邹臻杰 吴斯旻: 专家: "赋红码"事件涉嫌权力滥用，追责有明确法律依据) [*Expert: Giving Red Health Code Entails Potential Abuse of Power and Is Subject to Legal Sanctions*], DIYI CAIJING (第一财经) [YICAI] (June 16, 2022), https://www.yicai.com/news/101446134.html [https://perma.cc/3CJW-PDP4].

225. Xiaoqu You Mijie, Mashang Jiu Fenglou (小区有密接 马上就"封楼") [*If a Neighborhood Has a Close Contact of a COVID Case, the Building Where the Close Contact Lives Will Be Put Under an Immediate Lockdown*], SHENZHEN ZHENGFU ZAIXIAN (深圳政府在线) [SHENZHEN CHINA] (Jan. 15, 2022), http://www.sz.gov.cn/szzt2010/yqfk2020/szzxd/content/post_9522059.html [https://perma.cc/4BKF-YE96].

who refused to comply, neighborhood organizations were able to call upon the local police force or urban management offices, and if the mere presence of law enforcement was unable to produce compliance, arrest and detention measures were frequently employed.[226]

For entities—businesses, schools, and so on—that were not subsumed within any individual neighborhood block, subdistrict governments became the primary governmental agents that ensured compliance with COVID-19 prevention measures. Between 2020 and 2022, subdistrict personnel conducted frequent inspections of businesses regarding their COVID-related protocols.[227] For businesses who failed to adequately comply with government guidance, subdistrict governments would employ a range of

226. Guangzhou Jingfang Yifa Chachu Silei Weifan Yiqing Fangkong Xingwei (广州警方依法查处 4 类违反疫情防控行为) [*Guang Dong Police Investigate Four Types of Violations of Pandemic Control in Accordance with Law*], GUANGDONG SHENG GONGAN TING (广东省公安厅) [GUANGDONG PROVINCIAL PUB. SEC. DEP'T] (June 8, 2021), http://gdga.gd.gov.cn/jwzx/jwyw/content/post_3310535.html [https://perma.cc/GQS9-CNT4].

227. Yiqing Fangkong Bu SONGXIE! Qinghe Jiedao Zonghe Zhifadui Chixu Zuohao Yiqing Fangkong Zhifa Jiancha Gongzuo (疫情防控不松懈！清河街道综合行政执法队持续做好疫情防控执法检查工作) [*Don't Let Up on Epidemic Prevention and Control! Qinghe Sub-district Comprehensive Administrative Law Enforcement Team Continues to Deliver in Epidemic Prevention and Control Law Enforcement Inspections*], Meili Xin Qinghe (美丽新清河) [QINGHE SUBDISTRICT WECHAT ACCOUNT] (Nov. 11, 2022), https://mp.weixin.qq.com/s?__biz=MzI2MTY0NTM0OA==&mid=2247594153&idx=2&sn=a48b95dbab45e7ede3c26751d3f48de7&chksm=ea5405e2dd238cf4983fa1d29ff7259f6f0c4412428ec28b6c211bdba3b1d7ce1805939c6323&scene=27 [https://perma.cc/M9EN-3YRG].

punitive measures ranging from public shaming to fines and temporary closures,[228] to referrals for criminal prosecution.[229]

All in all, the central government's incorporation of neighborhood organizations into its bureaucratic framework led to a fundamental expansion of the Party-state's local control capacities: once largely invisible to most urban residents, neighborhood organizations now brought highly salient state control right to the doorstep of most urban households. They improvised and implemented prevention and quarantine measures, and, for a time, seemed to enjoy almost unchecked enforcement power in the realm of COVID-19 control. Thanks to them, urban residents experienced coercive government power on an almost everyday basis until late 2022—and while this was initially popular due to the low COVID-19 transmission China enjoyed, it eventually wore out both the Chinese Party-state and the population it governed.

COVID-19 prevention measures could not last forever, not even in China, but the expansion of local governmental authority was made of more durable institutional material. Parallel to the emergency delegation of administrative power to the subdistrict level and beyond for COVID-19 prevention purposes, sweeping institutional changes were also made to regular local government capacity, couched in formal policy language that was clearly designed to last well beyond the pandemic.

In April 2020, the CCCPC issued a general directive on the empowerment of local administrators.[230] Perhaps encouraged by its initial

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228. Yiding Yao Liaojie, Yiqing Fankong 22 Zhong Weifa Weigui Xingwei ji Falv Houguo (She Gehang Geye Gege Huanjie) (一定要了解! 疫情防控 22 种违法违规行为及法律后果(涉各行各业各个环节)) [*Attention! 22 Violations of Pandemic Prevention Measures and the Legal Consequences (For All Industries)*], SICHUAN SHENG RENMIN ZHENGFU (四川省人民政府) [THE PEOPLE'S GOV'T OF SICHUAN PROVINCE] (Feb. 14, 2022), https://www.sc.gov.cn/10462/scsfkzs/2022/2/14/a196d1dedbdb42c5b64bbeed60a7b2c2.shtml [https://perma.cc/3DW9-VUPV].

229. Dalian Yi Qiye Weifan Fangyi Guiding Zaocheng Yiqing Kuosan: Beifa 80wan, Sanren Huoxing [*An Enterprise Failing to Comply with Pandemic Control Measures, Causing the Spread of COVID: The Enterprise Was Subject to a Fine of 800,000, and Three People Were Imprisoned*], GUANGMING WANG (光明网) [GMW.CN] (Jan. 19, 2022), https://m.gmw.cn/baijia/2022-01/19/1302769910.html [https://perma.cc/CPX7-7PBG].

230. Guanyu Chixu Jiejue Kunrao Jiceng de Xingshi Zhuyi Wenti Wei Juesheng Quanmian Jiancheng Xiaokang Shehui Tigong Jianqiang Zuofeng Baozheng de

successes in COVID-control, the Party leadership now considered these local empowerment efforts instrumental to the "modernization of governance" and instructed all levels of government to formulate work plans to fundamentally "descend" administrative authority to the subdistrict level or below.[231] Since then, whatever political or bureaucratic hesitancy that used to mar local administrative expansion has all but vanished, replaced with a sustained investment in subdistricts and neighborhood organizations as foundational nodes of governmental power.

The next two Sections trace these investments along the same two themes that we developed in Section B of Part II: first, the formal delegation of law enforcement authorities to subdistrict governments; and second, the incorporation of neighborhood organizations into the official governance structure. Each Section begins with a discussion of central lawmaking and policymaking after 2020, and then provides more concrete illustrations of local implementation, focused on Beijing, Shanghai, and Shenzhen—three of China's four biggest urban centers, located respectively in North China, the Lower Yangtze, and South China.

We selected Beijing, Shanghai, and Shenzhen as our local case studies for several reasons. First, these three cities boast some of China's largest populations, with Shanghai ranking first, Beijing second, and Shenzhen fourth in terms of population size.[232] Second, they stand out as the most economically advanced urban centers in China, with the highest GDP levels.[233] The distinctive demographic characteristics and robust economic foundations of these cities confer unique institutional advantages upon their local governments. To begin with, the governments of these metropolitan cities command greater resources, measured in terms of both financial and human resources. Furthermore, they enjoy greater policy

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Tongzhi (关于持续解决困扰基层的形式主义问题为决胜全面建成小康社会提供坚强作风保证的通知) [Announcement on Continuing Resolving the Formalist Problems That Plagued Grassroots Governments and Providing Assurance to the Building of a Moderately Prosperous Society] (promulgated by the Gen. Off. of the CCCPC, Apr. 14, 2020).

231. *Id.*

232. *China Population*, POPULATIONSTAT, https://populationstat.com/china/ [https://perma.cc/2GSF-3N9D]. Note that Shenzhen ranks number six in terms of population by urban area. However, since we are focusing on "city" population, Shenzhen would rank number four in this regard.

233. *Top 10 Chinese Cities by GDP*, CHINADAILY (Feb. 8, 2023), https://www.chinadaily.com.cn/a/202302/08/WS63e2d340a31057c47ebad773.html [https://perma.cc/8DC5-N2JS].

autonomy, given the considerable political and economic significance they hold. This heightened status affords their governments greater latitude in shaping local governance policies.[234] Third and perhaps most importantly, these cities, especially Beijing and Shanghai, often serve as pioneers in setting policy trends. These governments are often confronted with novel problems in urban administration, which then call for innovative solutions.[235] Once these governments have shown that their policy reforms are successful in tackling these novel issues, the central government is inclined to promote similar reforms on a nationwide scale.[236]

B. Subdistricts and Law Enforcement

1. Central Legislation and Policymaking

As discussed above, prior to 2020, the delegation of law enforcement powers to subdistricts had moved slowly: city and district governments were often unwilling to share power, and central authorities were not yet motivated enough to decisively force the issue. Notably, while the central government had issued periodic policy directives on the issue, it did not place the issue in more prominent political documents like the "five-year plans" that serve as the clearest, most authoritative roadmap to Chinese government priorities,[237] nor did it issue any formal legislation.

All this changed during the pandemic. In late 2020, the Party published a new five-year plan on building rule of law in China, which laid out the Party's priorities in the legal realm and set the policy agenda for legislative,

234. Chengri Ding & Zhi Li, *Size and Urban Growth of Chinese Cities During the Era of Transformation Toward a Market Economy*, 46 URB. ANALYTICS & CITY SCI. 27, 29-30 (2019).

235. Huang et al., *"Inspiring Policy Transfers": Analysis of Urban Renewal in Four First-Tier Chinese Cities*, 12 LAND 118, 121 (2023).

236. Shaoda Wang & David Y. Yang, *Policy Experimentation in China: The Political Economy of Policy Learning* 1 (Nat'l Bureau of Econ. Rsch., Working Paper No. 29402, 2021), https://www.nber.org/papers/w29402 [https://perma.cc/Q7U5-QLC7].

237. On the importance of "five year plans" within the Party-state, see Angang Hu, *The Distinctive Transition of China's Five-Year Plans*, 39 MODERN CHINA 629 (2013).

judicial, and administrative work for the next five years.[238] In this plan, the Party explicitly committed to "descending the focus of law enforcement efforts down to city and county governments," and, perhaps more importantly, "directing law enforcement personnel, funds, resources, and equipment to the grassroots level."[239] In other words, unlike in 2015 and 2019, when the central government had called for "descent" but refused to commit additional administrative resources to it, it was now prepared, quite literally, to put its money where its mouth was.

Formal legislation soon followed. In early 2021, the National People's Congress (NPC) revised the Administrative Punishment Law (the 2021 APL), the primary legal document that allowed governmental entities other than courts to sanction individuals or organizations who violated administrative laws and regulations. For the first time, the 2021 APL expressly authorized subdistrict governments to issue administrative sanctions, whereas it had previously only recognized such authorization at the county/district level or above—it did not explicitly prohibit those higher-level entities from delegating this authority.[240]

Although reservations that subdistrict governments might abuse their newly acquired law enforcement authorities were expressed during the drafting and comment phases,[241] the NPC's resolve did not crack. To mitigate any remnant skepticism towards decentralizing law enforcement power, the 2021 APL provided a number of monitoring mechanisms over

238. Fazhi Zhongguo Jianshe Guihua (2020-2025 Nian) (法治中国建设规划(2020-2025 年)) [The Plan to Build the Rule of Law in China] (promulgated by the CCCPC, Jan. 10, 2021).

239. *Id.*

240. Xingzheng Chufa Fa (行政处罚法) [Administrative Punishment Law] (promulgated by the Standing Comm. Nat'l People's Cong., Mar. 17, 1996, rev'd Jan. 22, 2021), art. 24, 2021 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 261.

241. Quanguo Renmin Daibiao Dahui Xianfa he Falv Weiyuanhui Guanyu Zhonghua Renmin Gonghe Guo Xingzheng Chufa Fa Xiuding Caoan Shenyi Jieguo de Baogao (全国人民代表大会宪法和法律委员会关于中华人民共和国行政处罚法修订草案审议结果的报告) [*The Constitutional and Law Committee of the National People's Congress on the Review Results of the "Administrative Penalty Law of the People's Republic of China (Revised Draft)"*] (promulgated by the Const. and Law Comm. of the Nat'l People's Cong., Jan. 25, 2021), http://www.npc.gov.cn/npc/c2/c30834/202101/t20210125_309901.html [https://perma.cc/VCF8-6YVM].

local governmental behavior. First, it directed upper-level governments to publish the scope and content of delegation decisions concerning law enforcement decentralization to subdistrict governments. Second, it ordered upper-level governments to "guide, oversee, review, and assess" subdistrict government activity at regular intervals. While the NPC was fully cognizant of potential principal-agent problems that might arise during "descent," it would no longer allow those concerns to slow the pace of law enforcement delegation to subdistricts.

Within a few months, the central government had put together a package of policies designed to implement law enforcement decentralization nationwide.[242] In July 2021, a CCCPC and State Council opinion reiterated that city and district governments must proceed with the "delegation of administrative law enforcement authorities to subdistrict governments in accordance with law" and the "consolidation of law enforcement capacity and resources" at the subdistrict level to enhance the latter's enforcement capacity (hereinafter the July 2021 policy).[243] One month later, the CCCPC and the State Council jointly issued the Implementation Outline for the Construction of a Government under the Rule of Law (2021-2025) (hereinafter the August 2021 policy), which provided a more detailed road map.[244]

First, the document clarified that provincial governments shall not, in principle, assume any administrative law enforcement authorities.[245] This means that the vast majority of law enforcement power should be decentralized to the city level or below—something that was already the *de facto* reality in the vast majority of localities. Second, subdistricts and townships should immediately assume law enforcement authority over matters that require timely and frequent governmental action.[246] One can read between the lines here and easily sense the pandemic's shadow

242. Guanyu Jiaqiang Jiceng Zhili Tixi he Zhili Nengli Xiandaihua Jianshe de Yijian (关于加强基层治理体系和治理能力现代化建设的意见) [Opinion on Enhancing Grassroots Governance System and Modernizing Governance Capacity] (promulgated by the CCCPC and the State Council, July 11, 2021), 2021 ST. COUNCIL GAZ. 21.

243. *Id.*

244. Fazhi Zhengfu Jianshe Shishi Gangyao (法治政府建设实施纲要 (2021-2025 年)) [Blueprint on the Building of a Law-Based Government] (promulgated by the CCCPC and the State Council, Aug. 11, 2021), 2021 ST. COUNCIL GAZ. 24.

245. *Id.*

246. *Id.*

looming. Third, each subdistrict government should have a consolidated law enforcement team for all types of law enforcement efforts. [247] Furthermore, the team should not be encumbered by the functional divide with upper-level governments: it can and should assume all types of law enforcement authorities even when they span across different policy domains.[248]

Beyond these statements of general principle, these policy documents also provided for more concrete measures that would boost the administrative and fiscal muscle of subdistrict governments. This involved, first and foremost, a grant of "comprehensive administrative powers" to subdistricts, meaning that they should exercise every type of administrative power within their jurisdiction unless otherwise specified, paired with an institutional guarantee that they should henceforth be consulted in the formulation of any policy affecting their jurisdiction.[249] These measures provided subdistricts with a fairly robust amount of administrative discretion—and even a small amount of political voice—independent from any explicit command issued by higher-level entities.

The more pressing problem was that subdistrict governments in China lacked any kind of financial power: they possessed no taxation or budget power and were completely reliant on their superiors for financial appropriation. In response, the July 2021 policy set "improving the financial security of subdistrict/township governments" as an administrative priority,[250] while the August 2021 policy dictated that "the transfer of administrative tasks" such as law enforcement be "accompanied by the transfer of political authority, supporting personnel, and funding."[251] The central government also imposed additional safeguards to prevent higher-level entities from misappropriating subdistrict funding. Here, it initiated a reform to centralize payment of subdistrict government budgets, which instructed upper-level governments to deposit budgeted funds directly into subdistrict treasury accounts in the People's Bank of China.[252] The central bank would then make payments to subdistrict governments and, in the process, exercise some auditing powers over subdistrict funding.[253]

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247. *Id.*

248. *Id.*

249. *Id.*

250. *See supra* note 243, at 4.

251. *See supra* note 245, at 9-10.

252. *See supra* note 243, at 6.

253. *See supra* note 243, at 6.

Compared with its pre-COVID policy postures, the central government had now clearly taken a much stronger stance in favor of delegating law enforcement powers to subdistricts. It had, for the first time, issued formal legislation, and had finally begun the transfer of material resources in earnest.[254] The timing of these measures almost certainly had much to do with the administrative needs of pandemic control and prevention—the August 2021 policy's explicit emphasis on timeliness and frequency seemed to acknowledge as much—even though the measures themselves were written in generalized terms.[255] As with any Chinese institutional reform, the devil would be in the local-implementation details.

2. Local Implementation

Of the three cities that we focus on—Beijing, Shanghai, and Shenzhen—Beijing had the most complicated pre-COVID engagement with the central government's exploration of subdistrict law enforcement reform. One of Beijing's major districts, Chaoyang, was designated in 2019 as a pilot region for law enforcement "descent" and proceeded to experiment with a number of reforms that would have given subdistrict governments more control over law enforcement teams operating within their jurisdiction.[256] At the city level, however, the only substantive change was the creation of the "whistleblowing" system discussed in Part Two, Section II.A, under which district authorities would dispatch law enforcement personnel in response

254. It's important to note that post-COVID administrative reforms have not altered the formal relationship between district and subdistrict governments. District governments still maintain a higher position in the administrative hierarchy, with subdistrict governments operating under their supervision. However, despite this formal structure, subdistricts have gained significantly more authority and independence in ordinary administrative law enforcement, thus allowing subdistrict governments to play a more active role in addressing local issues and concerns.

255. *See supra* note 245, at 2, 5, 6, 11.

256. Yuan Chunhua (袁春华), Quanguo Jiedao Fuwu Guanli Chuangxin Shiyan Gongzuo Tuijin Hui Zai Chengdu Shi Zhaokai (全国街道服务管理创新实验工作推进会在成都市召开) [*The National Conference on Advancing Subdistrict Services, Management, and Innovative Experiments Was Held in Chengdu*], SOHU WANG (搜狐网) [SOHU.COM] (Sept. 22, 2019), https://www.sohu.com/a/342620924_120160190 [https://perma.cc/DE5K-S8SE].

to subdistrict "whistle-blowing"; substantive control over any ensuing law enforcement activity would presumably remain in district hands.[257]

In fact, in January 2020, on the cusp of the COVID-19 lockdown, the "whistle-blowing" system was formally enshrined into city-level regulations on subdistrict powers,[258] suggesting that city officials continued to be somewhat hesitant to delegate robust law enforcement powers to subdistrict governments. The regulations did mention that district governments would draw up lists of law enforcement activities "closely related to citizens' daily lives"[259] and delegate them to subdistricts, but the first real wave of delegation did not happen until half a year later.[260]

By mid-2020, however, momentum was fully on the side of delegation. Once the first list of delegated powers had been issued, things moved quickly. By 2021, some 452 law enforcement tasks had been delegated to subdistrict governments, covering an enormous range of activity from gardening and afforestation to public smoking and pest control.[261] A rough count shows that more than two-thirds—or 414 of 578—of the law

257. *See supra* note 138.

258. Beijing Jiedao Banshichu Tiaoli (北京市街道办事处条例) [*Regulations on Beijing Subdistrict Governments*] (promulgated by the Standing Comm. Beijing People's Cong., Nov. 27, 2019, effective Jan. 1, 2020), art. 5, https://www.gov.cn/xinwen/2019-12/17/content_5461763.htm [https://perma.cc/GU22-ALQP].

259. *See id.* art. 10.

260. *See* Guanyu Xiang Jiedao Banshichu he Xiangzhen Renmin Zhengfu Xiafang Bufen Xingzheng Zhifa Zhiquan Bing Shixing Zonghe Zhifa de Jueding (关于向街道办事处和乡镇人民政府下放部分行政执法职权并实行综合执法的决定) [*Decision to Decentralize Some Administrative Law Enforcement Authorities to Subdistrict and Township Governments and Consolidate Administrative Law Enforcement Authorities*] (promulgated by Beijing Mun. Gov't, Apr. 1, 2020, effective July 1, 2020), https://www.beijing.gov.cn/zhengce/gfxwj/202004/t20200416_1805614.html [https://perma.cc/KG7W-RS2R].

261. *See id.*; Guanyu Quxiao he Xiafang Yipi Xingzheng Zhifa Zhiquan de Jueding (关于取消和下放一批行政执法职权的决定) [*Decision to Abolish and Decentralize Some Administrative Law Enforcement Authorities*] (promulgated by Beijing Mun. Gov't, Mar. 23, 2021, effective May 1, 2021), https://www.gov.cn/xinwen/2021-04/01/content_5597313.htm [https://perma.cc/FFV7-QZBJ].

enforcement tasks previously assumed by district-level urban management offices were now delegated to subdistrict governments.[262]

Pursuant to central-level policies, the Beijing municipal government also took a number of steps to enhance the administrative capacity of subdistrict governments. First and foremost, it finally granted them the power to "command and mobilize functional departments of district governments to conduct joint-force law enforcement activities."[263] In other words, subdistricts would now get to call the shots on law enforcement activity within their own jurisdiction, instead of merely serving a whistleblower role. Moreover, they gained the power to issue formal performance evaluations of personnel sent over by district-level functional departments, which enhanced their substantive control over them.[264] Finally, they gained a much larger measure of administrative control over their own personnel and budgetary decisions.[265]

Recognizing that traditional concerns about the legal professionalism of subdistrict personnel had not simply vanished with the onset of the pandemic, the Beijing municipal government did seek to install some basic guarantees of quality and knowledge. It required all new administrative law enforcement officers at all levels to take a sort of mini-bar exam before assuming their jobs, and those that did not muster a passing grade would be forbidden from conducting front-line law enforcement activities until they did.[266]

As discussed in Part II, neither Shanghai nor Shenzhen took significant steps toward subdistrict law enforcement prior to 2020, so once the central

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262. *See* Decision to Abolish and Decentralize Some Administrative Law Enforcement Authorities, *supra* note 262. For details, see BEIJING MUNICIPAL BUREAU OF COORDINATED ADMINISTRATIVE LAW ENFORCEMENT FOR URBAN MANAGEMENT, ADMINISTRATIVE PENALTIES AUTHORITIES DETAILS, https://cgj.beijing.gov.cn/xxgk/sgs/202308/t20230816_3223733.html [https://perma.cc/NX46-D3DW].

263. *See supra* note 259, at art. 9.

264. *Id.*, at art. 11.

265. *Id.*

266. *See e.g.*, Yinfa Benqu Guanyu Jiezhen Zonghe Xingzheng Zhifa Xilie Wenjian de Tongzhi (印发本区关于街镇综合行政执法系列文件的通知) [Announcement on the Dissemination of Policies Relating to Haidian District's Subdistrict and Township Governments Conducting Coordinated Administrative Law Enforcement Authorities] (promulgated by Haidian Dist. Gov't, June 30, 2020, effective July 1, 2020), https://www.pkulaw.com/lar/3376009c45c6f87d8f26b0ed33614670bdfb.html [https://perma.cc/QU6L-P4JP].

government got serious after the pandemic hit, they had to scramble to respond. In July 2021, Shanghai revised its *Regulation on Urban Administration Comprehensive Administrative Law Enforcement* to grant subdistrict governments the authority to administer various law enforcement efforts related to urban administration.[267] More than two-thirds—or 479 of 680—of everyday administrative law enforcement tasks were decentralized to subdistrict governments.[268]

By 2021, the Shenzhen city government had also delegated a fairly long list of law enforcement activities to subdistricts—a total of 475 administrative law enforcement tasks. [269] In addition to everyday administrative issues like illegal parking or sanitation, Shenzhen also granted subdistrict governments rather expansive regulatory powers to suspend certain types of business services if they engaged in unauthorized behavior.[270] These included educational and after-school care programs, mining, funeral services, internet services, publication and cultural

267. Guanyu Xiugai Shanghaishi Chengshi Guanli Xingzheng Zhifa Tiaoli Shishi Banfa de Jueding (关于修改《上海市城市管理行政执法条例实施办法》的决定) [*Decision to revise the Implementation Measures of Shanghai Urban Management Administrative Law Enforcement Regulations*] (promulgated by Shanghai Mun. Gov't, Sept. 30, 2021, effective Nov. 1, 2021), https://www.shanghai.gov.cn/nw12344/20211109/984f0cc1b0bf441193a2aa08c9b7a802.html [https://perma.cc/SX9B-499T].

268. *See id.*; *see also* Guanyu Fabu Benshi Chenguan Zonghe Zhifa Lingyu Xingzheng Chufa Shixiang Qingdan he Huafen Zhifa Quanxian de Tongzhi (关于发布本市城管综合执法领域行政处罚事项清单和划分执法权限的通知) [*Notice on the Issuance of the List of Administrative Penalty Items and the Division of Law Enforcement Authority in the Field of Urban Management and Comprehensive Law Enforcement*], (promulgated by Shanghai Urb. Mgmt. and Law Enf't Bureau, Apr. 14, 2014), https://cgzf.sh.gov.cn/channel_4/20230705/99e6b61061c74983bab1190704b60423.html [https://perma.cc/2TAS-YKCG].

269. Guanyu Jiedao Zonghe Xingzheng Zhifa de Gonggao (关于街道综合行政执法的公告) [*Announcement About Subdistrict Governments Assuming Coordinated Administrative Law Enforcement Authorities*] (promulgated by Shenzhen City Gov't, July 27, 2021, effective Sept. 1, 2021), art. 1, https://pnr.sz.gov.cn/xxgk/ztzl/xzzfgsxxpt/sqgs/ztxx/content/post_9140554.html [https://perma.cc/X64N-L2JP].

270. *Id.*

performances, and inhabitable rentals.[271] Finally, subdistrict governments were authorized to penalize zoning violations.[272] The sum of these powers dwarfed the more mundane delegation lists drawn up in Beijing and Shanghai, perhaps befitting Shenzhen's status as China's major technological innovation hub—which may have placed greater pressure on its administrative enforcement entities to keep up with fast-paced economic changes on the ground.

Like Beijing, Shanghai and Shenzhen also faced the challenge of ensuring adequate legal professionalism among subdistrict officials—even in 2022, some Shanghai law enforcement officers openly criticized the delegation effort because they believed that subdistrict personnel lacked the expertise or incentive to conduct law enforcement activities effectively.[273] Both cities also invested significantly in professional training sessions for subdistrict personnel.[274] Neither imposed an exam-based

271. *Id.*, at art. 1.

272. *Id.*

273. Guanyu dui Jiedao Banshichu Xinzeng Zhifa Zhineng + Guanche Shishi Qingkuang Chixu Jiaqiang Zhidao de Jianyi (关于对街道办事处新增行政执法职能+贯彻实施情况持续加强指导的建议) [*Suggestions on Subdistrict Governments' Newly Acquired Administrative Law Enforcement Authorities and Enhancing Supervision Over These Entities Regarding the Descent of Law Enforcement Authorities*], SHANGHAI URBAN MANAGEMENT AND LAW ENFORCEMENT BUREAU (上海市城市管理行政执法局) [SHANGHAI URB. MGMT. & L. ENF'T BUREAU] (Aug. 8, 2022), https://cgzf.sh.gov.cn/channel_78/20220808/1ccef097391c4a89a8bfd6b84b75ac44.html[https://perma.cc/H4KU-62TD].

274. *See, e.g.*, Guangming Qu Chengshi Guanli he Zonghe Zhifa Ju Kaizhan Zonghe Xingzheng Zhifa Nengli Zhuanti Peixun Huodong (光明区城市管理和综合执法局开展综合行政能力专题培训活动) [*Guangming District Urban Administration and Coordinated Law Enforcement Bureau Organized Specialized Training on Coordinated Administrative Law Enforcement Capacity*], SHENZHEN SHI GUANGMING QU CHENGSHI GUANLI HE ZONGHE ZHIFA JU (深圳市光明区城市管理和综合执法局) [SHENZHEN GUANGMING DIST. URB. ADMIN. AND COORDINATED L. ENF'T BUREAU] (Nov. 24, 2021), http://www.szgm.gov.cn/gmcsglj/gkmlpt/content/9/9392/post_9392640.html#11344 [https://perma.cc/45ZS-895N]; Jiading Zhen Jiedao Kaizhan Xingzheng Zhifa Peixun (嘉定镇街道开展行政执法培训)[*Jiading Zhen Subdistrict Government Organized Administrative Law Enforcement Training*], SHANGHAI SHI SIFA JU (上海市司法局) [SHANGHAI GOV'T

credentialing system, but Shanghai created a somewhat more flexible performance-based assessment process for subdistrict law enforcement forces.[275] This included a multitude of metrics ranging from technological supplies and the use of standard forms and procedures, to proper legal documentation, to the number of civilian complaints.[276] Law enforcement teams that receive high remarks would receive internal awards for their achievements.[277]

C. Neighborhood Organizations as Bureaucratic Entities

1. Central Planning

If, prior to 2020, there was at least a somewhat clear central position in favor of delegating law enforcement authority to subdistricts—if unevenly and indecisively implemented—then, in contrast, there was no clear central commitment to using neighborhood organizations as social control entities at all. As discussed above, the central government had appeared to encourage this up until 2015, but then seemed to weaken its public posture on this in 2017 and 2019. It seemed discouraged by the potentially massive principal-agent problems that full administrative activation of neighborhood organizations might bring.

Once the pandemic began, the sheer scale of COVID-19 monitoring and lockdown administration made neighborhood-level coercive control necessary almost overnight, and the central government had to respond. This has been a somewhat mixed blessing for neighborhood organizations: On the one hand, they now exercise much greater coercive power compared to just a few years ago. On the other hand, central authorities have been visibly wary of letting them use this power discretionarily and have

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JUST. BUREAU] (June 3, 2021), https://sfj.sh.gov.cn/ywzx_zxzf/20210603/20ccefdefda64934bf7216eda4fddd0d.html [https://perma.cc/22CM-P824].

275. Guanyu Gongbu 2021 Nian Benshi Chengguan Zhifa xitong Guifan Zhongdui Chuangjian he Fujian Jieguo de Tongzhi (关于公布 2021 年本市城管执法系统规范中队创建和复检结果的通知) [*Announcement of the Model Teams of Shanghai Urban Management Administrative Law Enforcement and the Verification Results*] (promulgated by Shanghai Urb. Mgmt. & L. Enf't Bureau, Feb. 8, 2022), https://cgzf.sh.gov.cn/channel_zfjd/20220710/43d8f899491d43b9a7e141c4c6d90bbf.html [https://perma.cc/4JFM-GCFE].

276. *Id.*

277. *Id.*

instituted a series of sociopolitical and institutional controls in order to incorporate neighborhood organizations more fully into the Party-state apparatus.

Central directives on expanding neighborhood organization functionality have come in a variety of flavors. Most commonly, they continue to emphasize the central role that neighborhood organizations must play in local public-service provision. In late 2021, for example, the State Council pulled together a variety of minor directives into a formal five-year plan on community public-service provision.[278] In this document, it once again committed to boosting the quality and quantity of local-level public services, especially those related to childcare and elderly care, and vowed to boost the administrative personnel devoted to this issue by around twenty percent.[279] The basic tenor of the document was not qualitatively different from any discussed in previous Sections, although it did rhetorically elevate the political importance of service provision even further, to "a measure of major significance" for both the Party-state's governance capacities and the country's general socioeconomic development.[280]

More importantly, central authorities took unambiguous steps to shore up the functionality of neighborhood organizations as social-control and monitoring entities. For example, in the very same document that emphasized public-service provision, the State Council stated that neighborhood organizations should also beef up their policing capacity and enhance their ability to resolve basic disputes.[281] In particular, they should make sure they had the capacity to deal with local incidents of domestic violence, drug use, cult activity, and any kind of "emergency situation."[282]

In other policy documents issued around the same time, the CPCCC and State Council further emphasized the need to ensure that neighborhood communities could serve as general-purpose administrative-control

278. Guanyu Yinfa Shisiwu Chengxiang Shequ Fuwu Tixi Jianshe Guihua de Tongzhi (关于印发"十四五"城乡社区服务体系建设规划的通知) [*Announcement on the Dissemination of Fourteenth Five-Year Plan on Urban and Rural Community Services System Building*] (promulgated by the Gen. Off. of the State Council, Dec. 27, 2021), https://www.gov.cn/gongbao/content/2022/content_5674302.htm [https://perma.cc/BJW7-KHK4].

279. *Id.*

280. *Id.*

281. *Id.*

282. *Id.*

modules—responsible for the "general management of resources and administrative power within their jurisdiction"—during times of emergency.[283] During normal times, neighborhood organizations were nonetheless charged with "the generalized collection of local information and data," which should be conducted on the basis of "intelligent" and "digitized" technological platforms and shared with all other levels of government.[284]

It was obvious that the "emergency management" directives stemmed directly from China's pandemic experience, but the language used was generalized and forward-looking—in fact the pandemic was never mentioned as a political rationale at all—and therefore sent a very strong signal that the Party leadership wanted these emergency-control capacities to be in place for the long term. To that effect, all of these policies provided for permanent additions to neighborhood-organization personnel and funding.[285] The stated goal was not only to ensure that they were fully staffed according to newly increased quotas, but also to make neighborhood-organization positions, which had long been shunned by the college-educated labor force, attractive to more people with advanced educational credentials. This would involve higher pay, enhanced benefits, and the possibility of promotion into the formal bureaucracy.

Directives on expanding capacity naturally came hand-in-hand with directives on enhancing top-down control. If neighborhood organizations were to be given administrative powers akin to a formal governmental entity, then they had to behave like one. To this end, the central government took steps to narrow and specify the kinds of administrative orders that were sent down to the neighborhood level.[286] Most importantly, it set specific numerical goals for administrative tasks, thereby formally bringing neighborhood organizations into the same realm of bureaucratic rationality that higher-level governments had long been subject to; for instance, the plan specified how many social workers each neighborhood organization should have for every 10,000 residents, as well as how often social workers should visit local elderly and disabled residents.[287]

Beyond specifying the administrative duties of neighborhood organizations, central authorities also tinkered with their organizational

283. *See supra* note 243.

284. *Id.*

285. *See supra* note 279.

286. *See id.*; *see also supra* note 243.

287. *See supra* note 279.

frameworks. The aforementioned July 2021 policy "suggested" that neighborhood organizations establish specialized environment and property-management subcommittees. [288] This was paired with a "mandate" that neighborhood organizations improve their transparency measures—including by publishing their "authority lists," which would lay out the administrative command structure of neighborhood organizations along with their financial statements.[289] These moves made clear that the central government no longer cared as much about maintaining the nominal legal separation between official government entities and "self-governance entities."

Relatedly, the central government attempted to boost neighborhood organizations' compliance with higher-level directives by regularizing bureaucratic control over them. First, it mandated the "strengthening of comprehensive evaluations of neighborhood organizations." [290] Central authorities were fully aware that such evaluations ran the risk of overwhelming local administrators with paperwork—something that they had explicitly vowed to curb as recently as 2019, during the "burden reduction year"—but they nonetheless felt that maintaining oversight over these newly empowered grassroots administrators now took precedence over burden reduction. Furthermore, they directed higher-level governments to provide detailed policy guidance for neighborhood administrators and oversee the latter's performance. [291] Perhaps most substantively, central policies now instructed local branches of the Party Disciplinary and Inspection Committee to enhance their monitoring of neighborhood organizations. [292] Here, too, the nominal "self-governing" nature of neighborhood organizations was increasingly ignored.

Following this general trend, a number of personnel-management reforms were employed to tighten top-down control. In the aforementioned July 2021 CPCCC-State Council joint policy on local administrative

288. *See supra* note 242.

289. *Id.*

290. *Id.*

291. *Id.*

292. *See, e.g.*, Dongcheng: Zuzhi Kaizhan 2021 Niandu Shequ Dang Zuzhi Shuji Jiwei Shuji Peixun (东城：组织开展 2021 年度社区党组织书记、纪委书记培训) [*Dongcheng District: Organizing Training for Neighborhood Communities' Party Secretaries and Discipline Committees' Secretaries in 2021*], SINA.COM (新浪网) [SINA.COM] (Dec. 13, 2021), https://news.sina.com.cn/c/2021-12-13/doc-ikyamrmy8594667.shtml [https://perma.cc/U3TX-8MND].

governance, for example, central authorities specified criteria by which neighborhood administrators should be selected.[293] It required the local Party branch to review all candidates in neighborhood elections, and, as part of a general effort to prevent local interest groups from dominating neighborhood politics and to maintain its own grassroots control, it prohibited those with ties to local clans and mafia to participate in these elections.[294] Furthermore, the central government instructed that primary neighborhood administrators be regulated and utilized as governmental officials and ordered the transfer of their career profiles to the Party's organizational departments.[295] This was a somewhat mixed blessing that would simultaneously increase their sociopolitical stature and enhance bureaucratic control over their careers.[296]

All in all, compared with the uncertainty that marked central thinking on neighborhood organizations prior to 2020, the pandemic quickly removed any central-level ambiguity over whether, moving forward, they should primarily function as communal self-governance entities or as bureaucratic extensions of the Party-state. That question has now been firmly resolved in favor of the latter, and the only remaining question is when and how local governments will implement this new institutional vision.

2. Local Implementation

Early returns suggest that answer may actually be "sooner rather than later." Unlike the occasional reluctance that characterized city- and district-level responses to subdistrict law enforcement delegation, the Center's attempt at building neighborhood organizations into administrative entities received a fairly warm welcome in metropolitan cities. The contrast is not hard to understand: whereas the former could, in many cases, dilute the substantive law enforcement powers of district governments in particular, the latter was a predominantly positive development for overburdened city governments. Metropolitan authorities have long recognized the possible utility of neighborhood organizations in grassroots governance even in the absence of central directives. If anything, pre-COVID central directives on "clarifying the boundaries" between administrative and self-governance

293. *See supra* note 242.

294. *Id.*

295. *Id.*

296. *Id.*

entities may actually have held back city-level attempts at bureaucratizing neighborhood organizations.

In Beijing's case, the municipal government had promulgated evaluation criteria for social workers as early as 2012,[297] set forth guidelines for neighborhood organizations to routinize community consultation conferences as early as 2017,[298] and prescribed organizational frameworks and policy goals for urban resident committees in 2019.[299] Once the central government formally opened the gates in 2020 and 2021, municipal authorities rushed to take even more steps to incorporate neighborhood organizations into the central government's administrative structures.

On top of implementing the requirements set forth by the central government, the Beijing municipal government intensified its micromanagement of neighborhood organizations in many aspects. First of all, it redrew the jurisdiction of many neighborhood organizations in an effort to improve service delivery and facilitate information collection of the local population. Neighborhood organizations with more than 5,000 households under their jurisdiction were divided, whereas those with fewer than 500 were annexed to other neighborhood organizations.[300] A

297. Beijing Shi Shequ Gongzuozhe Kaohe Pingyi Banfa (北京市社区工作者考核评议办法) [*Beijing Community Workers' Evaluation Standard*] (promulgated by the Beijing Civ. Affs. Bureau & Beijing Hum. Res. & Soc. Sec. Bureau, Aug. 7, 2012), https://www.beijing.gov.cn/zhengce/gfxwj/201905/t20190522_57287.html [https://perma.cc/6XKS-476D].

298. Beijing Shi Shequ Yishiting Gongzuo Zhidao Guicheng (Shixing) (北京市社区议事厅工作指导规程(试行)) [*Temporary Working Guidelines Regarding Community Deliberation in Beijing*] (promulgated by Beijing Civ. Affs. Bureau, Feb. 13, 2017), https://www.beijing.gov.cn/zhengce/zhengcefagui/201905/t20190522_59790.html [https://perma.cc/AK3W-2NWR].

299. Beijing Shi Ju (Cun)min Weiyuanhui Xiashu Weiyuanhui Gongzuo Zhidao Guifan (北京市居(村)民委员会下属委员会工作指导规范) [*Working Guidelines Regarding Urban (Local) Neighborhood Organization's Subcommittees in Beijing*] (promulgated by CPC Beijing Branch & Beijing Civ Affs. Bureau, Aug. 19, 2019), https://www.beijing.gov.cn/zhengce/zhengcefagui/201911/t20191115_511895.html [https://perma.cc/D2F4-2DSA].

300. Ren Shan (任珊), Benshi Youhua Tiaozheng Jiedao Shequ Guimo, 61 Ge 5000 Hu Yishang Daxing Shequ Yijing Wancheng Chaifen (本市优化调整街道社区规模

seemingly apolitical initiative with the purpose of matching capacity with need, this initiative also reflected the municipal government's increasing political control over the sociopolitical constitution of neighborhood units.

Beijing took numerous steps to delegate a considerable amount of administrative power, previously exercised at the subdistrict or even district level, to neighborhood organizations. In 2022, it directed all neighborhood organizations to establish governmental service centers, equipped with their own staff and computer systems, to handle various types of administrative certifications and respond to related complaints—previously tasks handled primarily by subdistricts.[301]

More specifically, during the pandemic, the municipal government ordered all property-management companies to report to their respective neighborhood organizations and followed the latter's directives with respect to COVID-19 prevention.[302] This echoed a 2019 municipal policy that instructed all property-management companies to report to their neighborhood organizations monthly and communicate any challenges

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61 个 5000 户以上大型社区已完成拆分) [*Beijing Is Optimizing Subdistrict and Community's Sizes; So Far the Government Has Finished Dividing Up 61 Communities with More Than 5000 Households*], BEIJING SHI RENMIN ZHENGFU (北京市人民政府) [THE PEOPLE'S GOVERNMENT OF BEIJING MUNICIPALITY] (Jan. 25, 2021), http://www.beijing.gov.cn/ywdt/gzdt/202101/t20210125_2231067.html [https://perma.cc/M3X9-Q7DU].

301. Guanyu Jinyibu Jiaqiang Shequ (Cun) Zhengwu Fuwu Guifanhua Jianshe de Gongzuo Fangan (关于进一步加强社区（村）政务服务规范化建设的工作方案) [*Work Plan Regarding the Further Standardization of Community (Village) Governmental Services*] (promulgated by Beijing Governmental Affs. Servs. Bureau, CCP Beijing Branch's Organizational Setup Comm., Civ. Affs. Bureau & Beijing Agric. & Rural Affs. Bureau, June 20, 2022), https://banshi.beijing.gov.cn/zcjd/202206/t20220629_427579_APP.html [https://perma.cc/8JTR-XEWT].

302. Guanyu Jinyibu Jiaqiang Zhuzhai Wuye Fuwu Xiangmu Yiqing Fangkong Zhong Congye Renyuan Fanghu de Tongzhi (关于进一步加强住宅物业服务项目疫情防控中从业人员防护的通知) [*Announcement on Enhancing the Protection of COVID-Related Personnel of Property Management Entities*] (promulgated by Beijing Hous. & Urb.-Rural Dev. Bureau, May 14, 2022), https://zjw.beijing.gov.cn/bjjs/fwgl/zcfg/325837271/index.shtml [https://perma.cc/KBC3-CWNR].

associated with property-management matters.[303] By 2021, the municipal government had upgraded the authority granted to neighborhood organizations, even beyond the context of the pandemic, to "guiding local residents and property management companies on negotiations over the scope of property management and monitoring the performance of property managers."[304]

To increase the performance incentives for newly empowered neighborhood administrators, Beijing created a formal process of regularly recruiting the top performers among them into the official civil service.[305] This gave neighborhood officials qualitatively the same performance-based promotion and advancement incentives as almost any bureaucrat at the subdistrict level or above. For all practical purposes, Beijing has begun treating neighborhood organizations as a sixth level of government, rather than as a local self-governance entity.

Shanghai also moved rather aggressively to administratively activate neighborhood organizations. Most notably, it pushed the further descent of law enforcement capacity into neighborhood organizations. Beginning in 2019, it experimented with establishing urban-management (*chengguan*) workstations in neighborhood communities.[306] By 2021, the municipal

303. Guanyu Zuohao Zhuzhai Xiaoqu Wuye Xiangmu Fuzeren Dao Shequ Baodao Xiangguan Gongzuo de Tongzhi (关于做好住宅小区物业项目负责人到社区报到相关工作的通知) [*Announcement on Requiring Residential Compounds' Property Management Personnel to Report to Neighborhood Communities*] (promulgated by Beijing Hous. & Urb.-Rural Dev Bureau, May 30, 2019), https://www.beijing.gov.cn/zhengce/gfxwj/sj/201906/t20190605_87395.html [https://perma.cc/M3BG-B77H].

304. Beijing Shi Wuye Guanli Tiaoli (北京市物业管理条例) [Regulations on Property Management of Beijing] (promulgated by the Standing Comm. of Beijing People's Cong., promulgated Mar. 27, 2020, effective May 1, 2020).

305. Guanyu Jiaqiang Jiceng Zhili Tixi he Zhili Nengli Xiandaihua Jianshe de Shishi Yijian (关于加强基层治理体系和治理能力现代化建设的实施意见) [*Implementation Opinion on Enhancing Grassroots Governance System and Modernizing Governance Capacity*] (promulgated by the CCP Beijing Branch & Beijing Mun. Gov't, May 30, 2022), https://www.beijing.gov.cn/zhengce/zhengcefagui/202205/t20220530_2723740.html [https://perma.cc/4XGN-XEFK].

306. Shang Cheng (尚成), Jia Menkou de "Jieyou Zahuo Dian": Shanghai Tuijin Chengguan Zhifa Shequ Gongzuoshi Jianshe Zoubi (家门口的"解忧杂货店"——

government felt emboldened to roll out the program citywide, leading to the creation of these stations in almost every neighborhood community (6,002 work stations in 6,132 neighborhood communities).[307] Neighborhood-level social-management officers ultimately reported to their superiors at the subdistrict level, but were expected to coordinate and cooperate with neighborhood-organization personnel.[308] With their creation, the state's formal administrative law enforcement apparatus had, for the first time in China's post-Mao history, penetrated down to the very lowest levels of governmental presence.

Like Beijing, Shanghai has also sought to upgrade neighborhood organization personnel, both in quantity and quality. For instance, in 2022, the municipal government increased the quota for government social workers to four to eleven for neighborhoods overseeing 500 to 2000 households. It also mandated the formal training of neighborhood personnel in public service provision, data governance, emergency responses, and local party-building.[309] As we have seen in numerous examples above, expansions of local administrative power continued to be paired with efforts to professionalize local administrative personnel and formalize their behavior.

上海推进"城管执法社区工作室"建设走笔) [*"Convenience Store" at Your Neighborhood: Shanghai's Building of Urban Administrative Law Enforcement Offices at Community Level*], SHANGHAI URBAN MANAGEMENT AND LAW ENFORCEMENT BUREAU (上海市城市管理行政执法局) [SHANGHAI URB. MGMT. & L. ENF'T BUREAU] (Dec. 28, 2021), http://cgzf.sh.gov.cn/channel_advert/20211228/67acc1d4976e494e9801a6a7c88e5db0.html [https://perma.cc/Y93H-A7NJ]. Guanyu Mingming Quanshi Disanpi 50 Jia Chengguan Zhifa Shequ Gongzuoshi de Tongzhi (关于命名"全市第三批 50 佳城管执法社区工作室"的通知) [*Announcement of the 50 Model Urban Administrative Law Enforcement Offices (Third Batch)*] (promulgated by Shanghai Urb. Mgmt. & L. Enf't Bureau, Nov. 18, 2021), https://cgzf.sh.gov.cn/channel_zfxt/20220709/b26f976dbc5d4c4684cb8f9f3d40b346.html [https://perma.cc/26TR-74FQ].

307. *See id.*

308. *Id.*

309. Guanyu Yinfa Shahaishi Chengxiang Shequ Fuwu Tixi Jianshe Shisiwu Guihua de Tongzhi (关于印发《上海市城乡社区服务体系建设"十四五"规划》的通知) [Announcement on the Dissemination of Fourteenth Five-Year Plan on Urban and Rural Community Services System Building] (promulgated by Shanghai Civ. Affs. Bureau & Shanghai Dev. & Reform Comm., Sept. 26, 2022).

Similar developments occurred in Shenzhen. The Shenzhen city government and its immediate superior, the Guangdong Provincial Government, took significant steps beyond central policy to empower neighborhood organizations, but also sought to implement tighter administrative control over them. In the former dimension, the provincial government granted neighborhood organizations the formal authority to "guide," "supervise," and maintain formal registries of all social organizations—economic, recreational, educational, and so on—within their jurisdiction.[310] Along these lines, the Shenzhen city government issued, in 2022, a draft policy that would authorize neighborhood organizations to assume the powers and duties of homeowner's committees when the latter fails to function normally.[311]

In the latter dimension, provincial authorities utilized both sticks and carrots to enhance top-down control. In addition to implementing the mandates prescribed by the central government, the provincial government began, in 2020, to systemically audit the finances of neighborhood organizations. It quickly discovered that some organizations had misallocated their funds, and therefore demanded that all neighborhood organizations publish their financial statements going forward.[312] Around the same time, it also began to explore avenues to enhance the career-advancement incentives of neighborhood administrators. In 2022, it instructed the recruitment of salaried civil servants from "distinguished

310. Guangdong Sheng Shequ Shehui Zuzhi Fenlei Guanli Banfa (Shixing) (广东省社区社会组织分类管理办法（试行）) [Temporary Measures on the Administration of Community-Level Social Organizations of Guangdong Province] (promulgated by Guangdong Civ. Affs. Bureau, May 26, 2022).

311. Guanyu Zhengqiu Shenzhenshi Shequ Jumin Weiyuanhui Daixing Zhuzhaiqu Yezhu Weiyuanhui Zhize Guanli Banfa (Shixing) (Zhengqiu Yijian Gao) Yijian de Tonggao (关于征求《深圳市社区居民委员会代行住宅区业主委员会职责管理办法（试行）(征求意见稿)》意见的通告) [Announcement on Inviting Comments on the Temporary Administrative Measures on Neighborhood Organizations Acting on Behalf of Owners' Committees] (promulgated by Shenzhen Hous. and Constr. Bureau & Shenzhen Civ. Affs. Bureau, Feb. 24, 2022).

312. Guanyu Jinyibu Guifan Quansheng Cun(Shequ) Liangwei Jinbutie Fafang Gongzuo de Tongzhi (关于进一步规范全省村（社区）"两委"津补贴发放工作的通知) [Announcement on Further Regulating the Bonus and Stipend of Village (Community) Party Committee and Village (Community) Committee' Personnel] (promulgated by Guangdong Civ. Affs. Bureau, Mar. 20, 2020).

neighborhood personnel" and the transfer of "excellent neighborhood party secretaries to subdistrict governments."[313]

One common theme that has permeated both central policymaking and its local implementation is the continued use of the Party organizational apparatus as a top-down control mechanism. Almost every single central directive on local-governmental expansion contains at least some language on, for example, "insisting on the Party's comprehensive leadership in local governance," and "having the Party's leadership penetrate all aspects and every procedure of local governance."[314] More concretely, central policies continue to emphasize the need for regional Party offices to consolidate political coordination between various branches of the local bureaucracy and, as discussed above, for Party disciplinary officials to keep a closer eye on subdistrict and neighborhood-level administrators.

Municipal and city governments, too, have generally been eager to utilize Party institutions to keep local agents in line. Shenzhen, for example, has used local Party branches as "coordination agencies" to unify bureaucratic activity across different governmental units.[315] Meanwhile, the Beijing municipal government directed its Party Organization Department to regularize one-on-one meetings with any subdistrict official that received low scores in performance evaluations, which served as an internal warning shot and management technique that nonetheless stopped short of formal censure.[316] All in all, the insistence on Party leadership in local administration, which was already burgeoning prior to 2020, has only strengthened during the pandemic.

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313. Guangdong Sheng Chengxiang Shequ Fuwu Tixi Jianshe Shisiwu Guihua (广东省城乡社区服务体系建设"十四五"规划) [Guangdong Province Urban and Rural Community Service System Construction 14th Five-Year Plan] (promulgated by Guangdong Civ. Affs. Bureau and Guangdong Dev. & Reform Commission, June 1, 2020).

314. *See supra* note 242.

315. Quanguo Chengshi Jiceng Dangjian Yinling Jiceng Zhili Gongzuo Dianshi Dianhua Hui [*National Teleconference on Party-led Grassroots Governance in Urban Regions*], 12371.CN (Sept. 30, 2022), https://www.12371.cn/2022/09/30/ARTI1664504368606429.shtml [https://perma.cc/CYP6-5HWV].

316. *Id.*

IV. Broader Implications

Looking back, there are both significant discontinuities and equally significant continuities between pre- and post-pandemic Chinese state building. Imagine a person who changes into swim gear, walks up to a river, and then hesitates over whether to actually jump in. A strong gust of wind knocks him into the river, and he swims across. Without the gust of wind, there was at least a substantial chance he would not have jumped in at all, but without the preparations beforehand, he almost certainly would have climbed back onshore after being knocked in, instead of swimming across.

That scenario succinctly captures the state of Chinese administrative expansion before and after the COVID-19 pandemic. The pandemic dramatically strengthened the Party-state's commitment to local state building, but did not create it from scratch. Without the pandemic, there was genuine uncertainty whether, and to what extent, the central government would ultimately invest in subdistrict-level law enforcement or the bureaucratic incorporation of neighborhood organizations—it appeared particularly hesitant towards the latter. Without the pre-pandemic buildup, however, the post-pandemic expansion would almost certainly have been less decisive and less sweeping.

This Part looks back at these developments from a more abstract perspective and discusses their implications along three different dimensions: First, it provides some basic assessments of just how much they matter for the average Chinese citizen. Second, it considers their broader impacts on the Party's fiscal health and political popularity. Third, it assesses their long-term durability, in terms of the Party-state's political commitment and their socioeconomic sustainability.

A. The "Everything Everywhere All at Once" State

The obvious and perhaps most accurate answer to "what does the expansion of grassroots administrative capacity mean for individual citizens" is that it dramatically lowers the logistical difficulty—and, correspondingly, sociopolitical threshold—for the Party-state to escalate to the level of individual control citizens experienced during the COVID-19 pandemic. That kind of omnipresent, highly individualized, and extraordinarily coercive state presence was something that no modern Chinese regime had ever managed to impose, not even during the Cultural

Revolution,[317] in the aftermath of the 1989 Protests,[318] or during the 2003 SARS Outbreak.[319] Given the obvious strain that it had put on governmental finances and social patience by 2022,[320] it likely also represents the upper limit of current administrative capacity. What recent reforms have done is make it possible to reimpose them in any given locality with only, perhaps, a couple days of advanced notice.

At the peak of the pandemic, the Chinese government was essentially monitoring the movement patterns of nearly everyone in the country, or at least anyone who had recently stepped foot in an urban center, which at any given time was well more than 70 percent of the population. This was only made possible by converting China's roughly 4.3 million neighborhood organization staff into, for all practical purposes, governmental agents who wielded robust information collection and policing powers on a day-to-day basis. When challenged, they could immediately call upon reinforcements from nearby subdistrict governments, who now wielded nearly a full set of administrative law enforcement powers.

Most of these power grants have been made qualitatively permanent, if not necessarily quantitatively permanent, over the course of the pandemic: the "descension" of law enforcement authority to subdistricts has been fully formalized into central-level laws and policies. Meanwhile, neighborhood organizations have now been placed into a state of what one might call permanent "emergency readiness"—with permanent increases in funding, manpower, information collection capacities, and even some law enforcement capacity—so that they can respond quickly whenever higher authorities need to reimpose tighter control, perhaps even pandemic-era kinds of control.

To understand how much easier it now is for central or provincial authorities to reimpose that kind of control, we need to have a sense of how hard it was to construct in the first place. In early 2020, the vast majority of

317. Thomas B. Gold, *After Comradeship: Personal Relations in China since the Cultural Revolution*, 104 CHINA Q. 657 (1985).

318. Dingxin Zhao, THE POWER OF TIANANMEN: STATE-SOCIETY RELATIONS AND THE 1989 BEIJING STUDENT MOVEMENT 101-21 (2001).

319. Yanzhong Huang, *The SARS Epidemic and Its Aftermath in China: A Political Perspective*, *in* LEARNING FROM SARS: PREPARING FOR THE NEXT DISEASE OUTBREAK 116, 116-135 (Stacey Knobler et al., eds., 2004).

320. Luna Sun, *How China's Zero-COVID Policy Has Pushed People, Economy to the Brink*, SCMP (Dec. 4, 2022), https://www.scmp.com/economy/china-economy/article/3201886/how-chinas-zero-covid-policy-has-pushed-people-economy-brink [https://perma.cc/H35V-SRCP].

neighborhood organizations had never wielded any real coercive power, nor performed any systemic information collection functions. Some subdistricts had experimented with law enforcement, but most had not. To illustrate the sheer magnitude of the change, consider some numbers from Haidian district in Beijing: it contains some 3 million residents, spread across 29 subdistrict-level entities and nearly 700 neighborhoods.[321] Each subdistrict had perhaps 100-150 staff members,[322] and most neighborhood organizations employed 10-20 staff, depending on size. All 29 subdistricts had to be trained in administrative law enforcement, and the nearly 700 neighborhoods all had to transition from largely benign but also largely powerless public service suppliers to real governance units overseeing the movement, health, and safety of a few thousand people.

It might be easy to forget, in light of what China has recently become, that Chinese law enforcement was often laxer than Singaporean, South Korean, Japanese, or even American law enforcement in the pre-COVID era. [323] Despite the country's political restrictions, individual physical movement and economic activity had been, for lack of a better description, largely free in the forty-odd years between Deng's "opening up" reforms and the onset of the pandemic—too free, to some who bemoaned China's lack of legal sophistication during the 1980s and 1990s.[324] What local governments were asked to do during the pandemic was therefore qualitatively different

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321. Beijing Haidian: Tuidong haidian Tiyu Yundong Shiye Gaozhiliang Fazhan (北京海淀：推动海淀体育运动事业高质量发展) [*Beijing Haidian: Promote High-Quality Development of Haidian's Sports Industry*], HAIDIAN WENMING WANG (海淀文明网) [HAIDIAN CIVILIZATION NET] (Nov. 14, 2022), http://bj.wenming.cn/hd/hdwmbb/202211/t20221114_6511261.shtml [https://perma.cc/C36W-HHSF].

322. Beijing Shi Chaoyang Qu Renmin Zhengfu Jianwai Jiedao Banshichu 2024 Nian Niandu Bumen Yusuan (北京市朝阳区人民政府建外街道办事处 2024 年度部门预算) [*The Budget of Jianwai Subdistrict, Chaoyang District, Beijing Municipality, 2024*], CHAOYANG DISTRICT PEOPLE'S GOV'T OF BEIJING MUNICIPALITY, http://www.bjchy.gov.cn/ztzl/chyysgk2024/jdbsc/4028805a8d581295018d582b0da10182.html [https://perma.cc/PQC3-9K9T].

323. *See e.g.*, Han Dongping, *Between the US and China, Which Is the Police State?*, THINKCHINA (June 18, 2020), https://www.thinkchina.sg/between-us-and-china-which-police-state [https://perma.cc/S3A5-Y5XT].

324. *See e.g.*, Suzanne E. Scoggins, POLICING CHINA: STREET-LEVEL COPS IN THE SHADOW OF PROTEST 43-90 (2021); Kam C. Wong, *Policing in the People's Republic of China: The Road to Reform in the 1990s*, 42 BRIT. J. CRIMINOLOGY 281 (2002).

from what they were used to doing. The series of preliminary measures taken between 2012 and 2019 had somewhat increased their "war-readiness," so to speak, but not remotely to the level needed. It therefore took the Chinese government the better part of two years to gradually build the administrative infrastructure that made zero-COVID possible.

In comparison, the "new normal" that we now observe probably allows the Party-state to re-escalate within a single locality almost instantly, and across large geographical regions within a few weeks: the manpower, resources, and administrative know-how are all largely in place, as are the information collection platforms and any regulatory or legal precedents necessary. In fact, even without any declared public emergency, neighborhood organizations are now charged with collecting large swathes of individualized data on a day-to-day basis. For example, the numerous surveillance cameras that have been placed in every single urban neighborhood allow extremely sophisticated monitoring even without the use of health codes—and neighborhood administrators now supply the manpower to humanly process this information in a timely fashion. Law enforcement personnel are now permanently present in some parts of the country, for example in Shanghai, or at least stationed nearby. All in all, government presence at the neighborhood level may well have descended from its late-2022 heights, but instead of walking all the way back down the mountain, it seems prepared to stay permanently at a platform located perhaps less than halfway down, well-positioned to resurface whenever needed.

By late 2023, a full year after COVID-19 controls ended for most Chinese residents, the administrative empowerment of subdistrict governments and neighborhood organizations showed no signs of being rolled back. While the actual implementation of this program has been uneven at the local level,[325] the general institutional vision advanced by central authorities since mid-2020 has remained remarkably consistent. In fact, throughout 2023, numerous city-level governments across the country engaged in campaigns to "cover the final one kilometer of administrative law enforcement," a political slogan that now incorporates nearly all the law-enforcement

325. A recent article by Shitong Qiao argues that the expansion of administrative authority has encountered some resistance from local residents. Shitong Qiao, *Cooperating to Resist: Society and State during China's COVID Lockdowns* (Duke L. Sch. Pub. L. & Legal Theory Series No. 2023-59, 2023), https://ssrn.com/abstract=4575093 [https://perma.cc/38NG-L4YK]. We see no incompatibility between this thesis and ours, which is about policy design from the top down.

measures discussed earlier in this Article.[326] Some city-governments have now regularized the "descent" of bureaucratic new hires to subdistrict governments for a year or two to ensure that these young bureaucrats understand the in-and-outs of grassroots bureaucracies and address the increasing demand from citizens.[327] Many provincial governments have now institutionalized the "descent" of police officials by appointing these police officials as members of party committees of subdistrict governments and neighborhood communities to "integrate the police apparatus into local governance."[328] Far from having second thoughts on administrative

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326. *See e.g.*, *Datong Xingzheng Zhifa "Zuihou Yi Gongli"* (打通行政执法"最后一公里") [*Getting Through the Last Kilometer of Administrative Law Enforcement*], SOHU WANG (搜狐网) [SOHU.COM] (Oct. 18, 2023), https://www.sohu.com/a/729204763_121106822 [https://perma.cc/34H6-S3P2]; Lin Feng (林风), Rang Renmin Qunzhong Cong Mei Yici Zhifa Zhong Ganshou Dao Gongping Zhengyi (让人民群众从每一次执法中感受到公平正义) [*Making Sure that the People Would Feel Justice and Fairness in Every Single Law Enforcement Activity*], RENMIN WANG (人民网) [PEOPLE.COM] (Sept. 7, 2023), http://opinion.people.com.cn/n1/2023/0907/c223228-40072618.html [https://perma.cc/25CD-CV9H]; Chongchuan Qu Xinchengqiao Jiedao: "Gan" Jia "Xin", Datong Jiben Zhili "Zuihou Yi Gongli" (崇川区新城桥街道: "敢"+"新" 打通基本治理"最后一公里") [*Chongchuan District Xinchengqiao Subdistrict: Bravery and Innovation, Getting Through the Last Kilometer of Grassroots Governance*], ZHONGGUO JIANGSU WANG (中国江苏网) [JSNEWS.COM] (Nov. 24, 2023), http://jsnews.jschina.com.cn/nt/a/202311/t20231124_3323401.shtml [https://perma.cc/Z882-276C]; Yongchuan Qu Zhengfu Zhaokai Di 44 Ci Changwu Hui (永川区政府召开第 44 届常务会) [*Yongchuan District Government Held the 44th Party Committee Meeting*], CHONGQING SHI YONGCHUAN QU RENMIN ZHENGFU (重庆市永川区人民政府) [THE PEOPLE'S GOVERNMENT OF CHONGQING MUNICIPALITY YONGCHUAN DISTRICT] (Nov. 2, 2023), http://www.cqyc.gov.cn/sy_204/qxdt/202311/t20231102_12504888.html [https://perma.cc/6DR6-P79T].

327. On file with authors.

328. On file with authors. *See also* Jiaqiang Xin Shidai Gongan Paichusuo Gongzuo Sannian Xingdong Jihua (2023-2025 Nian) Jiedu (加强新时代公安派出所工作三年行动计划(2023-2025 年)解读) [*The Interpretation of the Blueprint of Enhancing Police Stations' Work in the New Era (2023-2025)*], ZHONGGUO JINGCHA WANG (中国警察网) [CHINA POLICE NET] (Mar. 28, 2023), http://news.

descent, the government seems intent on fully institutionalizing it across the country.

The Chinese government has been eager to portray these developments as expansions of public service provision.[329] That is true to some extent, but unless we consider the daily collection of individualized information—on civil disputes, failure to comply with neighborhood codes of conduct, or just movement in and out of the neighborhood—to be a public service, or think that a direct police presence in each neighborhood is no more than a public safety service, then it is obvious that public service provision is only part of the story, and hardly the most important part. Increases in public service provision have been largely continuous before and after the pandemic: they were, as discussed above, the only truly significant source of local governmental expansion prior to 2020. What has been distinctly discontinuous has been everything else: law enforcement and social control capacities, which both went from meek implementation pre-2020 to extremely aggressive growth afterwards.

With pandemic control itself no longer a governmental aim, the likely ends to which these new capacities will be applied are mainly sociopolitical or economic ones: the suppression of protests and dissent, the mitigation of social conflict, or emergency responses to floods or earthquakes. Of these, the first category is almost certainly the most significant. In fact, over the past few months, reports have already emerged of the Party-state applying its local governance capacities to identify and control political dissenters. In Beijing and Shanghai, for example, masked individuals who participated in the social protests that forced the end of zero-COVID in December have been quickly tracked down through neighborhood-level monitoring, and either warned or detained.[330] For most urban residents, privacy against the state is no longer plausible, not even within the confines of one's own residential area.

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cpd.com.cn/yw_30937/323/t_1077617.html [https://perma.cc/YP44-H6TM].

329. Guanyu Jiaqiang Shuzi Zhengfu Jianshe de Zhidao Yijian (关于加强数字政府建设的指导意见) [Guiding Opinions on Strengthening the Construction of Digital Government] (promulgated by the State Council, June 23, 2022) 2022 ST. COUNCIL GAZ. 19.

330. *See supra* note 6.

Western commentators have long spoken of the "Chinese surveillance state" in somewhat alarmed tones,[331] but until very recently, there were obvious physical limitations to what the state could accomplish at the individual level. If most coercive power is concentrated in district governments that often govern more than a million people, the sheer density of individual action makes it almost impossible to respond to anything but the more serious activities—overt political activism, for example. Street-side cameras can collect enormous amounts of information, but district-level officials can process and respond to only so much information, even with the aid of artificial intelligence. With the recent wave of local expansion, however, timely human processing of local information has become vastly more effective, which means that the state can now respond quickly to a much larger array of social problems and political threats, potentially eliminating them in their infancy. The political benefits to China's rulers are obvious, but as discussed below, the costs are also potentially massive.

B. The Costs of Too Much Control?

As discussed above, there are two sets of relationships that factor into how central planners think about governmental expansion: state-society relations and principal-agent relations. Within the context of a centralized authoritarian bureaucracy, any expansion in state control over society tends to aggravate principal-agent problems, *ceteris paribus*. These dynamics render the Chinese government's unprecedented administrative expansion during COVID-19 also unprecedentedly expensive.

The most obvious cost simply comes in expenditures: because the current political system tolerates no decentralization of its own authority, every expansion of local administrative power requires *two* layers of

331. Isabelle Qian et al., *Four Takeaways From a Times Investigation Into China's Expanding Surveillance State*, N.Y. TIMES (July 26, 2022), https://www.nytimes.com/2022/06/21/world/asia/china-surveillance-investigation.html [https://perma.cc/N8PG-3TFU]; Emily Feng, *"Surveillance State" Explores China's Tech and Social Media Control Systems*, NPR (Sept. 7, 2022), https://www.npr.org/2022/09/07/1118105165/surveillance-state-explores-chinas-tech-and-social-media-control-systems [https://perma.cc/U7L5-552B]; Adrian Wooldridge, *China's Surveillance State Will Be the West's Future, Too*, BLOOMBERG (Sept. 12, 2022), https://www.bloomberg.com/opinion/articles/2022-09-12/china-s-surveillance-state-will-be-the-west-s-future-too [https://perma.cc/XUN4-ES8N].

resource investment—one to expand local power over society, ideally in a professionalized way, and one to strengthen top-down monitoring of local power. As we have repeatedly demonstrated above, the central government simply does not feel politically secure enough to pursue the former without the latter. It does not yet seem to have enough trust in the professionalism of local cadres, or even in their political reliability.

Investing in top-down control through the Party apparatus may be somewhat more cost-effective than relying purely on the state side of the Party-state dichotomy. As mentioned in the case study of Beijing, having the Party apparatus play a coordinating role between different bureaucratic branches can help reduce instances of bureaucratic turf wars and enhance intra-government coordination because the Party apparatus could potentially overcome the *tiao-kuai* conflict. But even so, the costs of enhancing Party leadership across an administrative network of almost 9000 subdistrict governments and 117,000 neighborhood organizations nationwide are still exorbitant. [332] These would be significant fiscal challenges even in normal times, but Chinese local government finances are now, due to the costs of maintaining zero-COVID for nearly three years, probably more vulnerable than at any other point in the past three or four decades.[333] Some observers expect a fiscal reprieve over the next two or three years due to the dismantling of COVID-19 prevention systems,[334] but as many aspects of administrative expansion become permanently institutionalized, the size of that reprieve may well disappoint. This could seriously threaten the state's fiscal capacity to invest in other priorities, such as technological innovation, energy security, or stabilizing China's real estate market.

The other kind of potential cost comes in deteriorating popularity—or, perhaps, lower levels of perceived sociopolitical legitimacy. Within state-society relations, state control is only ever popular when it also provides social benefits: better public security, dispute resolution, infrastructure,

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332. *See supra* note 43.

333. Amanda Lee, *4 Weaknesses in China's Economy, From Local Government Finances to Poor Regulation*, SCMP (Nov. 14, 2022), https://www.scmp.com/economy/china-economy/article/3199300/4-weaknesses-chinas-economy-local-government-finances-poor-regulation [https://perma.cc/7JR5-53KX].

334. Frank Tang et al., *China's Economy Will Get Back on Track, Despite Low Growth in 2022, Vice-Premier Liu He Tells Davos*, SCMP (Jan. 17, 2023), https://www.scmp.com/economy/china-economy/article/3207157/chinas-economy-will-get-back-track-year-despite-last-years-low-growth-figures-vice-premier-liu-he [https://perma.cc/8UA3-QQ8Q].

health services, childcare, elderly care, and so on. The Chinese government certainly seems to be aware of this, but the challenge lies in doing all of these things *well*, while at the same time maintaining a basic level of professionalism and consistency in its social control activities. In other words, if local administrative expansion leads to growth in the quantity of government activity but declines in their quality, then state-society relations may well suffer as a result.

Even with significant investment in professional training—these are part of the fiscal costs discussed above—there is a very real chance that, for at least the near future, local administrative expansion will actually have to coexist with widespread misuses of power. Central authorities likely had good reasons to distrust the professionalism of subdistrict and neighborhood-level administrators prior to 2020, and it seems unlikely that the underlying problems could have been fully fixed in only three years. Quite the opposite, as recently as of late 2022, social complaints about local administrative abuses and inadequate public service provision only seemed to proliferate on Chinese social media.[335]

These complaints may well have been exacerbated by social frustration with too much state control, but that points to an even deeper kind of sociopolitical cost generated by the current wave of administrative expansion: the Chinese population may be more accustomed, by this point, to a heavier government presence in their lives,[336] but its tolerance is by no means infinite—and, in all likelihood, no amount of public service provision can change that. Social anger over pandemic lockdowns eventually boiled over by November 2022, forcing the government to dramatically accelerate its plans for winding down the zero-COVID policy.[337]

The more permanent kind of administrative expansion that has been built into the Party-state over the past three years is not nearly as intrusive as what was imposed during zero-COVID—it merely gives local administrators the capacity to constrain individual movement and will

335. Chris Buckley et al., *After Deadly Blaze, Surge of Defiance Against China's COVID Policies*, N.Y. TIMES (Nov. 27, 2022), https://www.nytimes.com/2022/11/27/world/asia/china-covid-protest.html [https://perma.cc/LDU6-KCRZ].

336. Insofar as this presence is managed in a legalistic fashion, it may well boost social support for the government. *See* Fu, Xu & Zhang, *supra* note 77, at 15.

337. Xiaofei Xu et al., *China's Xi acknowledges COVID Frustration Caused Protests and Hits at Relaxing Rules, EU Official Says*, CNN (Dec. 2, 2022), https://edition.cnn.com/2022/12/02/china/china-xi-eu-meeting-covid-protests-intl/index.html [https://perma.cc/U3LJ-S6BX].

likely not be used regularly—but even so, the likelihood that they will eventually test the public's patience is quite real. The public might, for example, simply tire of being monitored too much within their own residential neighborhoods. Alternatively, the fact that, from the government's point of view, the expansion makes future escalations of control much easier to pull off could potentially create a vicious cycle of state-society interaction, in which the state escalates control more often, thereby creating more social discontent at being controlled, which then incentivizes the state to escalate even more to contain the threat.

C. Administrative Expansion as a Self-Reinforcing Cycle

The potential for vicious cycles of this nature to emerge explains, ultimately, why the Party-government is unlikely to decommit from administrative expansion anytime soon. Regardless of whether Chinese state media acknowledges social unhappiness with governmental policy—and there are even some subtle nods towards public dissatisfaction in Xi Jinping's recent speeches,[338] which struck more of a reconciliatory tone than widely expected—the fact of the matter is that the Party-state has emerged from the pandemic in a somewhat vulnerable position. The economy has been severely weakened, arguably more so than at any point since 1978, and continues to face serious long-term headwinds like demographic decline. Moreover, with the visibly chaotic and hastily planned unwinding of zero-COVID, the public's faith in basic governmental competency, which was probably at an all-time high as recently as mid-2021, has almost certainly deteriorated significantly.[339] In fact, the protests against pandemic lockdowns that emerged in late 2022 were the largest expressions of public dissent since 1989.

All of these conditions make future escalations of social control more likely, rather than less. Government forbearance in authoritarian regimes is far easier to realize in boom times than in bust times: the deeper the

338. *Id.*

339. Jinyuan Li, *Shanghai's COVID-19 Lockdown Is Testing Public Faith in the Central Government*, SCMP (Apr. 15, 2022), https://www.scmp.com/comment/opinion/article/3174199/shanghais-covid-19-lockdown-testing-public-faith-central-government [https://perma.cc/3CJB-9GAR]; *"It Was All For Nothing": Chinese Count Cost of Xi's Snap Decision to Let COVID Rip*, GUARDIAN (Jan. 29, 2023), https://www.theguardian.com/world/2023/jan/29/chinese-cost-covid-xi-lockdowns-china [https://perma.cc/7AYX-VTPM].

economic pain, the greater the level of social unhappiness, and therefore the greater the need for government preemption of political dissent—not by improving economic performance, which is no longer reliably achievable, but by tightening sociopolitical control.[340] As a general matter, loosening of social control during periods of political vulnerability is enormously risky. The Chinese government in particular has, as many have argued, taken the lessons of Soviet decline during the 1980s to heart: numerous Chinese officials and scholars have blamed the USSR's eventual collapse on Mikhail Gorbachev's decision to pursue sociopolitical liberalization during a period of economic decline.[341] It would therefore be extremely surprising if the Communist Party pursued a similar course of action. In fact, the opposite is much more likely.

China is not quite in an economic decline situation *per se*, but its current economic slowdown is serious and, given its current demographic and fiscal fundamentals, likely permanent.[342] In the short run, it would be exceedingly risky for the government to significantly deescalate administrative control in the immediate aftermath of serious social protests. In the long run, the likelihood of higher economic tensions across Chinese society makes it even harder for the government to wean itself off of escalated control.

To make things worse, there is a somewhat substantial chance that heightened administrative control will, over time, further aggravate socioeconomic tensions. There is, as discussed above, a real likelihood that the public will eventually tire of living in such proximity to administrative-law enforcement and governmental monitoring. Beyond that, the ever-growing and likely imperfect exercise of governmental power can impose serious obstacles against economic growth and efficient resource

340. Stephan Haggard & Robert R. Kaufman, *The Political Economy of Democratic Transitions*, 29 COMP. POL. 263, 272-273 (1997).

341. Minxin Pei, *Gorbachev Did Save One Communist Party—China's*, BLOOMBERG (Sept 5, 2022), https://www.bloomberg.com/opinion/articles/2022-09-04/mikhail-gorbachev-s-legacy-includes-more-repressive-china [https://perma.cc/VN2H-PEHH]; Cindy Sui, *Why China's Leaders Think Gorbachev Took Wrong Path*, VOA (Sept 1, 2022), https://www.voanews.com/a/why-china-s-leaders-think-gorbachev-took-wrong-path-/6725292.html [https://perma.cc/4PXT-CWKF].

342. *See supra* note 334; *see also* Albee Zhang & Farah Master, *China's First Population Drop in Six Decades Sounds Alarm on Demographic Crisis*, REUTERS (Jan. 18, 2023), https://www.reuters.com/world/china/chinas-population-shrinks-first-time-since-1961-2023-01-17/ [https://perma.cc/4YB2-KD3J].

allocation.[343] The proliferation of officials with everyday monitoring and sanctioning authorities over businesses likely increases the costs of compliance,[344] and could easily lead to widespread micro-corruption, especially when it will take quite some time to professionally train local personnel.[345] At the more macro level, the mere fact that the state has expanded to this extent damages its ability to make credible commitments against expropriation and devaluation of private assets: the more guns someone holds, the harder it is for anyone else to believe that he will not fire some of them.[346]

If these more pessimistic predictions actually materialize, then they will only make it more difficult to deescalate administrative control. In fact, unless some external shock—a major technological breakthrough, for example, or some unforeseeable geopolitical event—leads to a significant upgrading of China's economic prospects, then it is hard to see how administrative expansion can reverse itself before state-society tensions reach a significant breaking point. Such a breaking point will not necessarily destabilize the regime—after all, neither the 1989 protests, nor the lesser protests of late 2022 produced any serious challenger to the Party's rule—but it will almost certainly produce considerable amounts of sociopolitical pain.

Conclusion

In most countries, the onset of the COVID-19 pandemic led to some form of administrative expansion, if only to enforce the lockdowns that were commonplace globally in 2020 and even 2021. Many, perhaps most, of these countries pursued administrative expansion under the legal framework of emergency powers, which gave governments a temporary boost in control

343. Tay-Cheng Ma, *The Effects of Competition Law Enforcement on Economic Growth*, 7 J. Competition L. & Econ. 301, 301 (2011); Paul G. Mahoney, *The Common Law and Economic Growth: Hayek Might Be Right*, 30 J. Legal Stud. 503, 503 (2001).

344. Donald C. Langevoort, *Monitoring: The Behavioral Economics of Corporate Compliance with Law*, 2002 Colum. Bus. L. Rev. 71, 93-100 (2002).

345. Susan Rose-Ackerman, *The Political Economy of Corruption*, *in* Corruption and the Global Economy 36-38 (Kimberly Ann Elliott ed., 2012).

346. Douglass C. North, *Institutions and Credible Commitment*, 149 J. Institutional & Theoretical Econ. 11, 11 (1993); Quan Li, *Democracy, Autocracy, and Expropriation of Foreign Direct Investment*, 42 Comp. Pol. Stud. 1098, 1098 (2009).

capacity, but also sent a clear signal that there would be, at some point, a reversion back to the institutional status quo. By 2022 or early 2023, administrative powers had indeed reverted back to its pre-pandemic status quo in most Western countries—with mask mandates removed and declarations of emergency formally terminated.[347] Even in countries like Japan, [348] South Korea, [349] or Singapore, [350] where COVID-19 control measures were significantly stricter than in Europe or North America, policies were unmistakably loosening by 2022, with few signs, if any, of a permanent expansion in administrative power.

From that perspective, the Chinese experience studied in this Article is highly unusual: not only were Chinese pandemic controls significantly tighter than in almost any other country, but they produced a large and permanent, rather than merely "emergency," increase in the state's administrative capacity. The Chinese government certainly made use of emergency laws to justify many of its initial actions, but those actions pale in long-term significance compared to the systemic "descension" of coercive authority to the lowest tiers of urban governance. It is perhaps tempting to simply attribute this to the Chinese Party-state's authoritarian character, but that would overlook the obvious fact that few other authoritarian regimes, if any, appear to have experienced a comparable phase of

347. *See e.g.*, *COVID: Germany Ends Obligatory Masks For Public Transit*, DW (Feb. 2, 2023), https://www.dw.com/en/covid-germany-ends-obligatory-masks-for-public-transit/a-64587973 [https://perma.cc/9SG9-XYBH]; Sharon LaFraniere & Noah Weiland, *U.S. Plans to End Public Health Emergency for COVID in May*, N.Y. TIMES (Feb. 3, 2023), https://www.nytimes.com/2023/01/30/us/politics/biden-covid-public-health-emergency.html [https://perma.cc/BU87-5KBJ].

348. Hana Slevin Ohama & Hiroyuki Akiyama, *Japan Looks to Lift Indoor Mask Guidance as Part of COVID Downgrade*, NIKKEI ASIA (Jan. 18, 2023), https://asia.nikkei.com/Spotlight/Coronavirus/Japan-looks-to-lift-indoor-mask-guidance-as-part-of-COVID-downgrade [https://perma.cc/RK5H-NFSB].

349. Kelly Kasulis Cho & Bryan Pietsch, *South Koreans Don't Have to Wear Masks Anymore. But Many Want To.*, WASH. POST (Jan. 30, 2023), https://www.washingtonpost.com/world/2023/01/30/south-korea-covid-indoor-mask-mandate/ [https://perma.cc/L3HP-4564].

350. Salma Khalik, *2022: The Year Masks Came Off in Singapore*, STRAITS TIMES (Dec. 27, 2022), https://www.straitstimes.com/singapore/2022-the-year-masks-came-off-in-singapore [https://perma.cc/Z8Y5-2ZL9].

permanent administrative expansion during the pandemic: not Singapore,[351] not Turkey,[352] not Russia,[353] not Vietnam.[354]

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351. Zehuan Liao et al., *Management of the COVID-19 Pandemic in Singapore from 2020 to 2021: A Revisit*, 5 REPORTS 35, 35 (2022). Singapore's success in controlling the COVID-19 pandemic is often attributed to the robust institutions that were established following the SARS epidemic in 2003. These institutions include increased hospital capacity, a significant fiscal reserve allocated for emergency needs, the utilization of technological tools for contact tracing, and the high level of political trust that the Singaporean government enjoyed. J.J. Woo, *Policy Capacity and Singapore's Response to the COVID-19 Pandemic*, 39 POL'Y & SOC'Y 345 (2020).

352. It is worth noting that many municipalities that were severely affected by the virus were under the control of opposition political parties. As part of its propaganda efforts, the incumbent party initially concealed COVID-19-related information from the public, possibly to showcase its effectiveness in managing the pandemic. Adnan Kisa, *Turkey's COVID-19 Strategy: "The West Is Jealous of Us,"* 42 J. PUB. HEALTH POL'Y 612, 618 (2021). Additionally, many COVID-19-related measures primarily fell within the domain of public health, with only a few policies requiring collaborative bureaucratic efforts, and some of these collaborative efforts resulted in implementation failures. Caner Bakir, *The Turkish State's Responses to Existential COVID-19 Crisis*, 39 POL'Y & SOC'Y 424, 424 (2020).

353. Paul Stronski, *Russia's Response to Its Spiraling COVID-19 Crisis Is Too Little, Too Late*, CARNEGIE ENDOWMENT FOR INT'L PEACE (Oct. 28, 2021), https://carnegieendowment.org/2021/10/28/russia-s-response-to-its-spiraling-covid-19-crisis-is-too-little-too-late-pub-85677 [https://perma.cc/FG8Q-ZMHV]. In fact, in order to prevent the mismanagement of the COVID-19 pandemic from undermining Putin's core political agenda of amending the constitution to extend his presidential term limits, subnational political elites engaged in data manipulation to under-report COVID-19 deaths, fearing that truthful reporting of such statistics might undermine their career prospects. Kofanov et al., *Encouraged to Cheat? Federal Incentives and Career Concerns at the Sub-national Level as Determinants of Under-Reporting of COVID-19 Mortality in Russia*, 53 BRITISH J. POL. SCI. 835, 840-41 (2023).

354. Hai Thanh Doan, *The Public Health Response to COVID-19 in Vietnam: Decentralization and Human Rights*, ASIAN BIOETHICS REV. (2022). Scholars have attributed the overall success of the Vietnamese government in managing the pandemic to improved center-local coordination. However, this coordination is often linked to factors such as enhanced government transparency and the anti-corruption campaign, rather than administrative expansion at the local level. *See* Trang (Mae) Nguyen & Edmund Malesky, *Reopening Vietnam: How the Country's Improving Governance Helped It Weather the COVID-19*

In fact, without the institutional groundwork that had already been laid between 2012 and 2019, it is rather doubtful that the pandemic could have produced such a permanent administrative expansion *even in China*. It is worth noting that previous large-scale Chinese governmental responses to infectious diseases—for example, the SARS outbreak of 2003—produced nothing of the sort.[355] COVID-19 hit China precisely at a major institutional juncture where the Party leadership was thinking seriously about administrative expansion but had yet to fully commit to it. That made all the difference. The pandemic gave policymakers and lawmakers the final, decisive shove they needed to take the plunge, and the country will be living with its enormous institutional consequences far after the pandemic itself has become but a distant memory. For better or worse, China has now entered a new administrative paradigm.

Pandemic, BROOKINGS (May 20, 2020), https://www.brookings.edu/articles/reopening-vietnam-how-the-countrys-improving-governance-helped-it-weather-the-covid-19-pandemic/ [https://perma.cc/Q52Y-YMPS].

355. *See supra* note 319.

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