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**“If the People Do Not Raise the Issue, the Officials Will Not Investigate”**

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# “If the People Do Not Raise the Issue, the Officials Will Not Investigate”: Moral Citizenship among China’s Fake-Fighters

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## Abstract

Are China’s fake-fighters (打假, dajia) heroic consumer activists or morally dubious profit-seekers? Do they make the marketplace safer for ordinary consumers by using the law to “fight” fake, dangerous and falsely advertised goods, or benefit only themselves through the exploitation of legal loopholes? Since the 1994 Consumer Protection Law introduced a fiscal incentive that made fake-fighting a viable career, its practitioners have struggled to define their work against these stereotypical characterisations. In this empirical article, I show that fake-fighters reject criticisms of their motivations while at the same time avoiding censure by party-state authorities wary of activism couched in terms of rights by framing their work as a practice of moral citizenship. Fake-fighters believe it is their responsibility to highlight potential dangers in the marketplace, disseminate legal knowledge, and, crucially, prompt the government to enforce pre-existing laws to better protect consumers and advance national development.

## Keywords

Citizenship, food safety, moral economy, consumer rights, Chinese Consumer Protection Law

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## Introduction

In 2008, at the height of the melamine scandal, Ye Guang, an independent consumer activist known as a fake-fighter (打假, *dajia*), got a tip about a toxic food additive for sale in the wholesale markets of Chongqing. Ye sprung to action, carrying out an investigation he then published on his website. He found the additive, a fake version of an artificial sweetener and a known carcinogen, selling briskly in markets in five different cities at a price less than 10 per cent of the legitimate version. A journalist contacted Ye after reading his report and, after verifying the story, sent copies to the highest level: then General Secretary Hu Jintao and then premier Wen Jiabao. About a month later, as Ye told me in an interview in early 2010, he received a phone call from the Sichuan Bureau of Industry and Commerce. The situation he had reported, they told him, had been reviewed by the leadership and was being handled. “Who approved it?” he asked me, pausing for dramatic emphasis, “Wen Jiabao approved it” (Ye, 2010). It was a compelling story, full of heroic derring-do, and Ye clearly enjoyed telling it. It also illustrated an idealised model of civic action in an authoritarian state plagued with food and drug scandals. Ye saw the danger posed by a product few were aware of and felt it was his duty to report it.

Ye Guang’s fake-fighting career had begun in the late 1990s, shortly after China’s most famous fake-fighter Wang Hai became a national celebrity after discovering a “double compensation” clause in the then-new Consumer Protection Law that allowed him to profit from buying and returning fake, defective, or misrepresented goods. Wang Hai was initially “hailed as a new model Chinese citizen” (Wong, 2012: 22), but there were always doubts about his motives and techniques. As fake-fighting became an established career, much of the Chinese public came to see it not as activism or advocacy but as the pursuit of profit and celebrity through the devious use of a legal loophole to extort money from retailers (Brandtstädter, 2008). It is the fact that rather than admitting to their selfish motives, fake-fighters depict themselves as consumer heroes, that earns the most antipathy, particularly because most Chinese are not aware of the public interest work many fake-fighters do. The activities encompassed within fake-fighting are diverse, yet fake-fighters categorise their own work less by what they do than by whether or not they profit from it. There are “professional” (职业, *zhiye*) fake-fighters such as Wang Hai, now the head of a large consulting firm, who primarily work on large, profitable projects, “public interest” (公益, *gongyi*) fake-fighters such as doctor-turned-patient-advocate Chen Xiaolan, who refuse to accept any compensation, and those like Ye Guang who fall somewhere in between.

While double compensation, which rose to a factor of ten in cases involving food and drugs after the implementation of the 2009 Food Safety Law, remains an important part of their toolkits, most fake-fighters also invest their time and resources into projects that are designed to both make the market safer for consumers and improve the functioning of regulatory organs and the law. This includes making reports, publishing product warnings, advising aggrieved consumers, or simply alerting retailers that they are selling something that doesn’t meet legal standards. Dedicated students of the law, fake-fighters see consumer rights as a tool, not as the expression of a relationship between citizens and

the state as is the norm in liberal democracies. Although their activism is intended to prompt the state to action, the desired effect is to improve governance and further the process of “development,” not to destabilise or alter the current system. Therefore, fake-fighting has so far been immune to the crackdown on civil society and human rights activists initiated by current leader Xi Jinping (Pils, 2018a). In fact, at the same time, the party state has become increasingly defensive about “governing according to law” (Peerenboom, 2015), it has expanded the scope and protections of the Consumer Law, a move interpreted as meant to encourage fake-fighters and ordinary consumers to use the law to purify the market (Thomas, 2014, 2018). While fake-fighters share some characteristics with the “consumer-citizens” who have used their civic rights to challenge market actors, they are better described as entrepreneurs of the law engaging in “targeted protests” against immoral and illegal actions occurring in the domain of the marketplace.

Fake-fighting can be understood as an “ethical repertoire” (see intro to this volume), a means of practicing citizenship at a time when fake and dangerous goods are a source of great anxiety. As Perry observes, “the Chinese term for ‘citizen’ (*gongmin*) – literally a ‘public person’ – connotes collective membership in the polity, rather than a claim to individual or inalienable rights *vis-à-vis* the state” (2008: 46). The citizenship enacted by fake-fighters resists claiming rights in favour of an activism characterised by what Perry calls a “rules consciousness” that “serves to undergird more than to undermine, the authority of the state” (2010: 13). If Chinese activists want to achieve their aims and avoid official censure, it is vital that their claims be couched in a discourse that does not overtly challenge state power, but this does not mean that their motives can be reduced to strategic calculations. While they may hold more critical views of the state than they are willing to reveal publicly, I argue that most fake-fighters experience their work as a service to both the nation and the state and see themselves as fulfilling their civic responsibility to promote development and the rule of law in China. Against criticisms that they are motivated by profit, criticisms that challenge their value to a society beset by scandals driven by greed and corruption, fake-fighters claim a moral citizenship based on their contribution to the well-being of the nation, and on helping the party state deliver on its moral economy promises of socioeconomic well-being and development (Perry, 2008).

This article offers an ethnographic corrective to theories of Chinese protest that overemphasise pragmatic calculation and neglect subjective experience, drawing on data from fourteen face-to-face interviews, several online conversations, and a survey of Chinese and English-language media reports on fake-fighters. These investigations were part of a broader research project on consumer rights and citizenship in urban China, carried out over fourteen months between 2009 and 2011, encompassing participant observation in a small, Beijing-based consumer protection organisation, interviews with lawyers and other institutional actors involved in consumer welfare, as well as focus groups and shop-alongs (see Kusenbach, 2003) with ordinary consumers. I use focus group data here to reveal public perceptions of fake-fighting and to show both how they diverge from fake-fighters’ own articulations of their work and shape these articulations by necessitating the incorporation of defences against charges of profit-seeking as well as engagement with popular definitions of service to the nation. While the article’s

findings rely heavily on interview data collected nearly a decade prior to publication, more recent online conversations and news articles show no substantive changes in the discourse surrounding the work of fake-fighting.

In what follows I review relevant literature on legal rights, morality and the law, and the complex relationship between consumption and citizenship in post-reform China before introducing three themes drawn from fake-fighters' narratives: civic responsibility; profit in the public interest; and development and the promise of law. After contextualising the fake-fighters' work with reference to scholarship on protest, resistance, and contemporary articulations of rights in China, I develop the argument that fake-fighters both defend themselves against party-state censure and public criticism and express their own vision of their role in national development by practicing fake-fighting as a form of moral citizenship. Fake-fighting requires unique qualifications and its practitioners face frequent challenges and even threats, thus their community has always remained small – one well-known fake-fighter has estimated that 300 Chinese citizens engage in the work full-time and a few thousand more dabble (Anonymous 1, 2011), a number that continues to tally with my own surveys. Nonetheless, they have provided a now decades-long model of political engagement in a context where market capitalism is paired with authoritarian governance and I reflect briefly on the implications of this in the conclusion.

## **Rights and the Rule of Law in Post-Reform China**

Literature addressing fake-fighting has connected it to a broader phenomenon: growing awareness of individual rights (Brandtstädter, 2008; Wong, 2012; Yan, 2000). The question of rights consciousness, defined by Chen as “the degree to which citizens are aware of and willing to assert individual rights for themselves” (2013: 68) is a contentious topic. Many scholars view Chinese citizens as increasingly aware of and even empowered by their rights as workers (Lee, 2007), peasants (Brandtstädter, 2011; Gallagher, 2006; O'Brien and Li, 2006), or even political subjects (Goldman, 2005), offering as evidence their careful deployment of rights' language in protests and negotiations with local power holders. Perry acknowledges that it is reasonable to emphasise the role of “rights talk” among protesters, if not society at large, but advises observers to resist “the temptation to depict these features as indicative of an emergent ‘civil society’ posing a growing challenge to the authority of the Chinese Communist state” (2010: 12).

In an influential essay challenging normative approaches to rights and their consequences in studies of contemporary China, Perry goes a step further, arguing that scholars and other observers have seen expressions of rights consciousness through the framework of Anglo-American political thought and thus misread their meaning. For more than 2000 years of Chinese statecraft, she argues, there has been “an enduring emphasis on collective socioeconomic justice” (2008: 38). Perry shows the Communist Party actively encouraging “a conceptual linkage between ‘livelihood’ and ‘rights’” (2008: 46) and argues that this defuses the potential for political transformation others have seen in Chinese expressions of rights consciousness. She suggests that protesters

who insist “that as ‘citizens’ they have a ‘right’ to eat” are “following more in the moral economy footsteps of Mencius and Mao than in the liberal tradition of Locke or Jefferson” (2008: 45). Expressions of rights, in other words, may be more moral than political. As Perry summarises:

The invocation of legal rights is a prominent feature of popular protest in contemporary China. But whether this points to a newfound rights consciousness, rather than a familiar practice of presenting one’s demands in terms acceptable to the state in order to receive a sympathetic hearing, is debatable. (2010: 23)

Another challenge to normative treatments of rights’ consciousness in contemporary China comes from critical scholarship on the law. The panoply of legal reforms initiated in 1980s and 1990s China, argue Selden and Perry, were designed “in part to alleviate the anxieties and conflicts that accompanied head-spinning changes in both the economic and social arenas” (2010: 8). The party state has a “highly instrumental” view of the role of law in society and has taken a proactive approach to deploying the law as a means of providing an outlet for grievances (Diamant et al., 2005: 6; see also Goldman, 2005; Selden and Perry, 2010). Instead of empowering citizens, the law can be a tool to suppress activism: “For citizens, the mere fact that their complaints are heard, or should be heard, helps make the regime a bit more palatable” (Diamant et al., 2005: 7). The increasing accessibility of rights discourses and legal tools has not put a stop to popular protest but has made the invocation of legal rights a common feature of contemporary protests.

In the Xi Jinping era, the CCPs claim to be “the natural custodians of the law” (Pils, 2018b) has been fused with a strident rejection of liberal norms and universal values, as seen in the leaked “Document 9,” or publicly asserted in the fourth Plenum Decision on the rule of law (Peerenboom, 2015). Highly publicised crackdowns on *weiquan* (维权) lawyers seem to mark a significant change in the party state’s approach to the rule of law, but scholars have long observed that the CCP has been trying to “keep a leash” on the legal system (Michelson, 2008: 64). Peerenboom argues that while the Decision reaffirms that China is taking its own path towards development, which includes rejecting the idea that the rule of law might supersede the power of the Party, it “does not appear to recalibrate the relationship between the Party and state [...] Rather, it is a public acknowledgement of the status quo and a spirited defence of the role the Party and Party organs actually play at present” (2015: 59). If the CCP has promoted the pragmatic purposes of the law, it is in part because the leadership sees it as a tool – a means to an end, not an end in itself. Thus, there is no necessary contradiction in the fact that the Decision issued by the fourth Plenum both identified political limits to legal reform and promoted “the norms and practices of a rule of law culture for officials and citizens alike” (2015: 50).

## Moral Frames in Legal Discourse

Huang has described contemporary Chinese legal practice as characterised by a “moral pragmatism,” explaining that it is the moral dimension that makes it “forward looking,

prospective, in its vision for a good society” (2015: 20). From a historical perspective, he argues the dominance of Confucianism in the Imperial Era “made for a much greater role for moralism in both governance and law” (2015: 5) than found in societies influenced by Christianity. For example, the emphasis on mediation over adjudication is emblematic of a practice of the law “based on principles about what morally ought to be, not just what is legal” (2015: 7). This is an acknowledgment that the law is not neutral but carries a moral force. This capacity of the law to be an instrument of social change has been seized on by the fake-fighters. Their practice of moral citizenship, as I argue below, is based on their ability to use legal discourse to force party-state agents to do their moral duty and thus to make the market a safer place for all.

As Diamant et al. argue, feelings of injury and injustice “do not bubble up in a vacuum; they emerge and can only be observed in the context of expectations about what is ethical, fair, and just, and these, in turn, are often shaped by wider communities and individual experiences” (2005: 8, see also Fassin, 2009: 1244). This understanding of law shares much with a moral economy approach in that it reveals the way that discursive resources, often drawing on historical configurations, are used to critique the legitimacy of contemporary arrangements. For instance, popular protests often make use of Maoist rhetoric and imagery (Brandstädter, 2011; Lee, 2007; O’Brien and Li, 2006), and the revolutionary era has “come to stand as a convenient foil for many of the discontents” of the present day (Selden and Perry, 2010: 13). In developing the concept of “rightful resistance,” O’Brien and Li are careful to distinguish it from moral economy claims, arguing it does not “involve quite the same accommodations with existing power relations or assertions of long-standing cultural conventions” (2006: xii). They describe it as a “new form of popular contention” that

entails the innovative use of laws, policies, and other officially promoted values to defy disloyal political and economic elites; it is a kind of partially sanctioned protest that uses influential allies and recognized principles to apply pressure on those in power who have failed to live up to a professed ideal or who have not implemented some beneficial measure. (2006: 2–3)

This can be contrasted with the moral economy approach I follow here, where expectations for fair transactions are based on obligations inherent in social and political relationships (Carrier, 2018; Thompson, 1971). O’Brien and Li see “contractual ways of thinking and a growing fluency in rights talk” as the foundation for the widespread deployment of rightful resistance in the Chinese countryside (2006: 6). Perry is critical of the notion that activism of this kind is connected to “a rising rights consciousness on the part of a citizenry poised to mount a counterhegemonic project” (2010: 24), arguing that what such protests reveal is citizens’ consciousness of the rules of political engagement.

## **Consumer Rights and Consumer-Citizenship**

The “discovery” of consumer rights in the 1980s and 1990s among Chinese newly confronted with the vagaries of the marketplace proceeded from the bottom-up (Yan,

2011), but the system of consumer rights put in place by the party state was decidedly top-down. The 1993 Consumer Protection Law and its 2013 revision reflect a clear focus “on supporting further domestic economic development in China, rather than enhancing individual consumer rights” (Thomas, 2018: 316; see also Thomas, 2017). The key question has long been whether this system can empower citizens to fight for their rights in the marketplace *without* empowering them to challenge the party state. From the advent of the reform era, consumerism in China was associated with, and inextricable from, radical economic changes that held the potential for radical political and structural change (Davis, 2000; Yan, 2000). Consumer rights, on the other hand, appear to have little political potential. In my own research (Kuever, 2018), I found urban Chinese ambivalent about the idea of consumer rights and deeply sceptical of the parastatal organisations and broader consumer welfare apparatus designed to promote and protect them. While a handful of scholars saw early promise in the Law (Hooper, 2005; Yan, 2000), this promise has failed to materialise (Gerth, 2008: 38; see also Davis, 2006; Thomas, 2017).

When I spoke to Chinese lawyers familiar with the consumer law, they admitted it was a poor tool for the exercise of consumer rights, highlighting the high cost of litigation coupled with restrictions on class action lawsuits (集体诉讼, *jiti susong*) which made it impossible for consumers to band together against an entity that had violated their rights. The most common complaint I heard in focus groups was indeed the cost and inconvenience of exercising one’s rights. In serious and sensitive cases, such as the 2008 melamine scandal, consumer rights have proved useless, and lawyers who have tried to represent aggrieved families have been punished for doing so (BBC, 2016). The party state, Davis observes,

speaks in the language of individual consumer rights when it encourages citizens to rely on their own initiative and entrepreneurship but becomes ambivalent or hostile when consumers use their autonomy to challenge party-state political monopolies or business partnerships with private developers. (2006: 295)

This connection of the consumer rights regime to the drive to produce self-managing subjects (Ong and Zhang, 2008) is clear in the language of the law, which specifies the responsibilities of buyers and sellers but largely excludes the state beyond a role as mediator.

Hooper (2005) has argued that the Chinese government has actively promoted consumer rights awareness, hoping a mass of empowered consumers can be a means to the end of purifying the market of fake and shoddy goods (see also Thomas, 2017). The fake-fighters would seem to represent this ideal, and indeed some Chinese officials encouraged fake-fighting when it first emerged, hoping “that such a model example of activism would bring about broader social change and raise citizens’ awareness and desire to exercise their rights” (Wong, 2012: 24, see also Hooper, 2005: 18). This phenomenon has gone by two terms in the literature: the consumer-citizen (Hooper, 2005, Wong, 2012) and the citizen-consumer (Davis, 2006). Both terms refer to a phenomenon seemingly unique to contemporary China: consumers’ assertion of their



civic rights, “vis a vis the market, with the endorsement and encouragement of the state” (Hooper, 2005: 2). Studies of homeowner organisations (Davis, 2006; Read, 2008), for instance, find the potential for the empowerment of consumer-citizens, but caution that much depends on how the state and other powerful actors negotiate their roles and responsibilities.

## Consuming Citizens and the Dangers of the Market

If consumer rights ever held the potential to empower citizens, this potential may have been quashed by the 2008 melamine-tainted milk scandal. When I carried out fieldwork from 2009 to 2011, I sometimes heard the scandal cited as evidence of the uselessness of the consumer welfare apparatus and the futility of exercising one’s consumer rights. The intervening decade has seen many smaller scandals, each serving to remind citizens they still cannot trust state supervision and regulation of the market. The vaccine scandal of July 2018 has the potential to be another defining moment. When the news broke that hundreds of thousands of children’s vaccines were faulty, Chinese citizens, especially parents, were outraged. Many took to social media to vent, expressing their anger not just at the company who manufactured the vaccines, but at the government regulators who failed to keep them from the market:

My home country, how can I trust you? You just let me down again and again. (Westcott and Wang, 2018)

People from the drug and vaccine regulator should resign immediately, this is shameful! (Lo, 2018)

This response shows that grievances that could be framed as matters of consumer rights are instead seen by citizens as evidence of the failures of the party state. Instead of a phalanx of empowered consumer citizens, the post-melamine era has seen angry citizens anxious about consuming national products. Gerth has argued that in the Republican era, the “combination of nationalism and consumerism became a basis for what it meant to be a citizen in ‘modern China’” (Gerth, 2008: 48), I argue that being a citizen today is also about being a consumer, not because there is a duty to buy Chinese but because there is doubt and anxiety connected with buying Chinese. There is nothing new about this; problems with the quality of Chinese-made goods have existed since the onset of reform (Wong, 2012; Yan, 2000, 2012). What *is* significant is that it is becoming more and more difficult to explain these problems as a mere stage on the road to becoming a developed nation (Hansen, 2013: 70).

To be a citizen in China today means acknowledging that it is dangerous to be a consumer in China today. Every fake-fighter was first a consuming citizen, and each has a story of their transformation – a moment when their identity vis-à-vis the market shifted from consumer to activist. Agreeing with Gallagher (2006) that citizenship is always a “political process,” I argue here that fake-fighters’ engagement with the party state through institutions and the tool of the law constitutes an ongoing practice of citizenship. In the analysis that follows, I first identify three linked themes through which fake-fighters understand and experience their work, concluding that in diagnosing

the ills of the contemporary marketplace as the result of profit-seeking and corruption insufficiently checked by law and regulation, and identifying themselves as able to improve this situation, the fake-fighters feel duty bound to serve the nation through their work. I explain the concept of moral citizenship, arguing that it both frames fake-fighters' engagement with the party state and establishes a defence against public impressions that fake-fighting is driven by greed. Conceding that it is impossible to determine to what degree the moral and legal discourse fake-fighters utilise is strategic or represents their deepest motives, I nonetheless conclude that fake-fighters are not mere pragmatists but are enacting a citizenship based on a moral ideal.

## A Thematic Analysis of Fake-Fighting

In my interviews, conversations, and media surveys of fake-fighters, several linked themes emerged. I describe them as civic responsibility, profit in the public interest, and development and the promise of law. The primary motive fake-fighters express as driving their work I term *civic responsibility*. This was articulated most directly by Wang Hai, the first and most famous fake-fighter:

You can't see upholding your consumer rights as a purely individual matter, you have to see it as a civic responsibility (公民责任, *gongmin zeren*) [...] looking at it as [an individual] consumer you will lose money exercising your rights – it's not worth it. But from the perspective of civic responsibility, developing the Chinese nation, if you put the effort in now you won't have to later. (Wang, 2009)

In an interview with a journalist, Chen Xiaolan, the only well-known female fake-fighter, expressed her belief that citizens had the responsibility to bring attention to fakes in the medical domain, her area of specialisation: “do not stay silent; speak out about the things around you that are wrong, unsafe, unscientific, unfair. Information is so developed today, as long as we speak out, there is hope” (Liu, 2009).

Embedded within the assertion that fake-fighting is a civic responsibility is the idea that the information fake-fighters provide – either directly as Ye Guang did with the case of the fake sweetener related earlier or indirectly through communicating to the market that a product is not up to standard by reporting or taking it to court – is vital to improve the market's functioning. This can be connected to a longer tradition of protest as a means of “conveying popular concerns to the political leadership” (Perry, 2010: 27) and reveals a conception of the Chinese market as distorted by inadequate supervision, regulation, and enforcement of the law. Before the fake sweetener case, Ye Guang was involved in an investigation of the unhygienic production of single-use needles. To be safe for use, the needles needed to be produced in sterile environments, but the equipment necessary to create such an environment was expensive, so many producers cut corners, and once their cheaper needles were on the market, legitimate producers had little choice but to follow. In Ye's view, the market was essentially forcing well-intentioned manufacturers to produce unsterile needles. Ye Guang told me he saw himself as merely “nudging” (助推, *zhutui*) the regulatory gears into action and likened

the case to an old Chinese proverb: “If the people do not raise the issue, the officials will not investigate it” (民不举官不究, *min bu ju guan bu jiu*), connecting his work to a longer civic tradition.

The fake-fighters I came to know understood that it was difficult and time-consuming for citizens to exercise their consumer rights but believed that the passivity of ordinary consumers was one of the biggest reasons the market was still such a dangerous place. Some compared the case of China to that of more “developed” nations such as Japan or the United States where, they believed, consumers were not willing to accept low quality or unsafe goods and thus manufacturers did not try to sell them. As Shanghai-based Chen Xuefeng put it, “it’s because the costs (成本, *chengben*) of exercising your rights is so high – but when consumers just say ‘forget it’ that supports the continuation of illegal activities” (Anonymous 1, 2011). Fake-fighters see themselves as agents in a system where weak institutions, passive consumers, and an immature legal regime make it difficult for market actors to meet legal and regulatory standards or resist coercion or temptation from wealthy and powerful interests.

With the term *profit in the public interest*, I am describing fake-fighters’ redefinition of moral behaviour through the argument that they serve society and should thus be fairly compensated. Fake-fighters are very aware that their public influence and image is directly proportionate to whether or not they profit from their work. It was the public interest fake-fighters, most of whom refused any profit, who were most preoccupied with this theme. I heard disparaging comments about how one had to be poor to be taken seriously and frustrated references to Mao-era model citizen Lei Feng, who was celebrated for spending his short life in service to the nation. As Zhou Liang lamented “if you say you want to pursue money and economic interests they say you’re wrong; if you become a living Lei Feng, exhausted, starving, they all praise you. This is the twisted mentality that has developed in China” (Anonymous 2, 2010). An issue they took personally was the implication that if one profited from fighting fakes, profit must be the motive and not just a means for survival. This impugning of the motive of civic responsibility was dismissed by the defence that many other types of work were both more remunerative and less dangerous and socially stigmatised.

Regardless of whether they made money from their work, nearly every fake-fighter I met made a point to defend the decision to profit, both as a practical means to concentrate on the work and as an incentive which had the beneficial side effect of making the market safer. One public interest fake-fighter in Suzhou was tired of hearing Wang Hai dismissed because he profited from his campaigns:

He tells everyone he just wants to make money, but Chinese people cannot accept this. They don’t understand [...] the more money he makes, the less danger for consumers, so why can’t they see that this is a good thing? This is something I have always been confused about, and the reason I have never been a real fake-fighter – if I fight fakes I can’t help but make money!

He went on to tell me about testing the new food safety law on the first day it came into effect and “accidentally” making RMB 700, which he promptly donated, publishing the story on his blog. If he kept his earnings, he told me, people would have criticised him,

saying he did it only for the money, even though “through my actions, this product was in fact taken off the shelves – something that may have benefited many consumers” (Anonymous 2, 2010).

Another way fake-fighters see their work is as a bridge between the promise of law and the law as it is. As a Beijing-based former colleague of Wang Hai’s told me “We have so many laws, and they are good laws, so why are there still so many things being sold in the market that don’t meet legal requirements?” (Anonymous 3, 2010). Fake-fighters are frequently criticised as “taking advantage of loopholes” in the law to profit, but as one stated in defence “this should not be called a loophole, this is called the law” (Anonymous 4, 2011). I categorise expressions like these as *development and the promise of law* for two reasons. One is that fake-fighters insist that the law itself, while an effective tool, is not sufficiently understood or enforced in China, but they can help to change this by educating consumers, businesses, and agents of the party state. Most of China’s best-known fake-fighters maintain websites where they share information or link to legal texts, and many answer calls and emails from consumers with questions about the law. There are also fake-fighters, such as Wang Haidong in Shanghai, who consult for businesses to help them become compliant with the law, thereby avoiding becoming their target. Several fake-fighters told me staff of the local bureaus they frequented might resent the extra work of processing their cases, but through it they had learned more about the law. One retired fake-fighter told me one of his cases had become a legal precedent and was now taught in law school. Wang Hai’s former colleague Shi Meng, cited above, viewed the law as prone to deteriorating from underuse, explaining:

law is just a framework, you have to keep pushing it. You can’t let it lag. If this framework – think of it like a ladder, an iron ladder. If you don’t climb it every day, the ladder will rust, it will break; it gets shaky when it gets rusty. But if you climb the ladder often, fix any parts that break, won’t that ladder will be a very good tool for climbing up and down? Law is the same; if you don’t use it, it becomes useless. You have to push it forward in the areas where it isn’t complete, when something is not legally stipulated, and you have to keep pushing it, keep at it until it’s perfect. (Anonymous 3, 2010)

It is the resonance of the concept of development in reform-era China (Ong and Zhang, 2008; Yan, 2012) that links it in a second way to the promise of law in the fake-fighters’ work. Perry (2008) argues that Chinese notions of rights have historically been connected to subsistence, but since at least the Mao era, citizens have believed that the government also has the responsibility to develop the nation. She finds these concepts are “not simply abstract mantras uttered by Chinese philosophers and statesmen; they are central to the ways in which ordinary people in China think and act politically” (2008: 38). Brandtstädter sees the concept of development as a double-edged sword for the party state, describing it as “the universalist promise on which the legitimacy of the party state rests” as well as “the claim citizens hold against the government” (2011: 276). By promoting and perfecting the law, fake-fighters are helping the state to develop the nation. When they lament that few consumers have the time or energy to defend their rights, they make them a foil for their own active citizenship practices – and present themselves as true patriots who are willing to do difficult work society does not respect

to make the country safer. Fake-fighters, like other Chinese citizens, are angry and embarrassed about China's association with poor-quality goods and endless product scandals and believe by intervening they can improve the quality of these goods. Development is thus the site for the performance of their moral citizenship.

## Fake-Fighting in Comparative Context

Fake-fighters' "targeted protests" share similarities with protest tactics elsewhere in China. Rural protest leaders (O'Brien and Li, 2006) and rural activists and lawyers (Brandstädter, 2011) also view law as a tool or a weapon, a framing that has been encouraged in semi-official discourse (Michelson, 2008). Some become dedicated students or even teachers of the law. What fake-fighters do is also similar in many ways to what O'Brien and Li (2006) call "rightful resistance": it is episodic, it involves strategically proclaiming allegiance to core values, and it seeks the support of elites and allies within officialdom. Most importantly, fake-fighting, like rightful resistance, holds up a mirror to the party state to reveal the ways in which it has failed to meet its promises. The differences are few but significant. Rightful resistance is primarily a rural phenomenon, fake-fighting almost exclusively urban; rightful resistance is grassroots, popular, and collective, whereas fake-fighting is individual or in small groups and has limited public support. Most importantly, rightful resistance targets local elites and government officials *through* petitioning higher-level authorities for intervention, whereas fake-fighters target market actors through engagement with, or the prompting of, party-state actors.

The political subjectivity of fake-fighters is shaped by their belief that they are not just dealing with local injustices but doing the vital labour of bringing China socially and economically in line with the wealthy nations of the West and Asia. Unlike rightful resisters, fake-fighters are officially tolerated – even encouraged – because their activism affirms the primacy of "development" in official Chinese political discourse and because their vision of consumer rights is fundamentally apolitical. Instead of attacking the government for failing to protect its citizens, fake-fighters demonstrate that individuals can and should take matters into their own hands. As fake-fighter Sun Anmin has written on his personal website "the fight against fraud and violations of consumers' rights and interests is our responsibility and the obligation of every citizen." Their engagement with the law is, at least to some degree, as "self-governing subjects who will enrich and strengthen Chinese authoritarian rule" (Ong and Zhang, 2008: 10). Through personal websites and consumer hotlines, interviews with journalists, and appearances on television shows, fake-fighters encourage citizens to exercise their rights in the marketplace but believe their primary role is to educate party-state actors and institutions who are not doing their job to enforce the law. They are careful to distinguish themselves from *weiquan* activists whose work is perceived as overtly political (Pils, 2018a). One way they do this is through language, for instance by using the term *cujin* (促进), composed of characters meaning "urge" and "move forward," to describe their engagement with state actors and institutions. *Cujin* is variously translated as to "promote," "advance," "accelerate," "further," or

“encourage,” all of which express a moving *with*, rather than against. But the term also carries a sense of urgency, because the moral duty to make the market safer weighs on the fake-fighters as they go about their daily lives.

Scholars who have written about the fake-fighters, if sometimes overly optimistic about their role in heralding a new era of widespread consumer rights awareness, have noted the seeming paradox of state support. Wong writes that although Wang Hai was like other citizens testing their rights in the 1990s, he “was set apart from the masses of litigious citizens by certain officials who wanted to promote individual action in consumer rights and protection” (2012: 30). Writing about the “Wang Hai phenomenon” at its peak in the mid-to-late 1990s, Yan notes that it provoked some observers to argue that more important than the exercise of the consumer law by independent activists was “to perfect consumer protection laws and actually to implement those laws” (2000: 176), a call the fake-fighters themselves have taken up. Brandtstädter takes a historical perspective, comparing the contemporary consumer movement to a collective Maoist movement (运动, *yundong*). This perspective does not account for the numerous political and structural barriers to the formation of a collective consumer movement, something I discussed frequently with the fake-fighters. I agree with Brandtstädter that the language of fake-fighters “addresses the consumer as an agent of social progress” and celebrates finding and “beating” fake goods “as a patriotic act that promotes the formation of quality in economy and society” (2008: 141), but this language is not widespread outside of their small community. Furthermore, I argue that fake-fighters’ engage with the discourses of law and development rather than antagonistic class struggles and that their political subjectivity is shaped primarily by the moral imperative to develop China.

Fake-fighting shares some features with consumer-citizenship but is distinct from it. In the literature, Hooper’s consumer-citizens and Davis’ citizen consumers are empowered by their consumer rights to make claims that are political insofar as they highlight the state’s failures to supervise and regulate the market and protect consumers. What fake-fighters do is certainly political, but it is a misnomer to call them consumer activists. Although they reject the argument of some judges that they cannot utilise the provisions of the Consumer Law when they buy products with the intention of returning them for double or ten times compensation because they are not “true consumers” (Thomas, 2014, 2018), at a fundamental level fake-fighters do not experience their activism through a consumer subjectivity. Their claims are based not on their market position as consumers but on their civic role as dutiful and moral citizens.

On several occasions, one of my fake-fighting interlocutors pointed out a product they had targeted in the past. For instance, at a hot pot restaurant in Xi’an, a waitress brought out a package of thinly sliced lamb and the fake-fighter I was dining with seized it, announcing “I fought this” (我打过这个, *wo da guo zhe ge*), and showing me the ingredient list, which he said had once included a banned preservative (Anonymous 5, 2010). At other times, they used products as props to illustrate past campaigns or the continued existence of illegal practices, as when a fake-fighter in Changsha pointed emphatically at a pack of cigarettes on a nearby table, explaining that cigarette manufacturers were among the worst offenders when it came to using exaggerated language

that was banned by the advertising law. They related to these products as crusaders rather than consumers – seeking not the satisfaction of needs or desires but evaluating products against a mental checklist of legal standards. When they encountered violations, they felt obligated to act. Although Ye Guang no longer considered himself a fake-fighter, if he saw something with a problem in his local supermarket he would call the manager, who knew him well: “I just have to say the word and it’s off the shelves” he told me (2010). Journalists who have covered fake-fighters have observed them give retailers verbal warnings, threatening legal action only if the problem is not quickly resolved (see, for instance, Wee, 2016). A public interest fake-fighter with a popular blog once explained to me that the reason his posts on product issues garnered only a small percentage of the readership of his articles on issues like local corruption was that the former was only interesting to those consumers who had bought, or were interested in buying, that product, whereas the latter was relevant to any citizen. This is not the case for fake-fighters, for whom consumer issues are fundamentally about being citizens.

### **Practicing Moral Citizenship by Fighting Fakes**

In my research in Beijing and around urban China, I found widespread the view of fake-fighters as profit-seekers who took advantage of legal loopholes and picked “easy” targets like mislabelled goods or expiration dates. In three Beijing focus groups, participants were asked to discuss their opinions of fake-fighters and their role in consumer welfare, and evaluations were overwhelmingly negative. This was due in part to the fact that it was the use of the double compensation clause that defined most participants’ ideas about fake-fighters. Few knew about the range of other activities involved in fake-fighting or that some fake-fighters never profited from their work. In one group, a middle-aged woman brought up a public interest fake-fighter who focused on fake drugs and another woman countered “if they are really not profiting that is admirable, but I doubt this is often the case” (Anonymous 6, 2010). This response was emblematic of the cynicism with which many Chinese I spoke with viewed fake-fighters. Steinmüller has argued that deploying cynicism juxtaposes “current human sociality” and “life at a more fundamental and base level” (2014: 11). Thus, we can interpret the cynicism directed at fake-fighters as a critique of disguising greed and self-seeking as Lei Feng-esque heroic service. Such comments also express a certain knowing weariness at “fictions portraying China as a harmonious society, whose members share collective goals and a morality of selfless devotion” (Hansen, 2013: 55). Although much media and official discourse from state-sponsored consumer institutions celebrates the project of fake-fighters and encourages citizens to follow their model, the Chinese public treats these messages as they do much authoritative discourse, as little more than empty words (Hansen, 2017).

Griffiths argues that in contemporary China, it is assumed that people are driven by self-interest, but to claim moral capital actions must be negotiated as for the benefit of others, a difficult argument to make when much of what fake-fighters do is first for the “benefit” of the abstract entity of the market, and secondarily for consumers (2013: 100). The fake-fighters I came to know were aware their motives were disparaged by the public and had well-developed responses to common criticisms, vehemently arguing

against the idea that they were motivated by profit or using legal loopholes and insisting that any case that resulted in illegal or non-standard goods being pulled off the shelves was good for consumers. By teaching retailers to comply with the law, they argued, they were making the marketplace safer. Wee (2016) quotes Yu Fengxing, a fake-fighter specialising in online sales: “The main purpose of suing them is to ask them to correct themselves.” These cases were also personally rewarding for the fake-fighters. Many spoke with pride of their biggest cases, but also seemed to enjoy smaller projects, as I observed when they pointed out former or potential cases with enthusiasm.

There is little reason to doubt fake-fighters’ claims that whether they were motivated purely by profit they would seek a more profitable and less dangerous career; it is also obvious that some amount of profit is necessary to recoup the costs of litigation and compensate the time and travel involved in fighting fakes. From another perspective, the desires for profit and fame that many Chinese attribute to Wang Hai and those like him could be covered by, or even coexist alongside, their discourse of service to the nation, a phenomenon Kleinman et al. refer to as “the divided self” (2011). This practice has a long tradition in China, dating at least as far back as the early twentieth century, when intellectuals and reformers invoked the notion of the divided self in their call for “liberating the individual from the small and inward family circle in order to serve the nation-state” (Kleinman et al., 2011: 16). Kleinman et al. cite as the most well-known example reformer Liang Qichao’s call for a new citizen made in the 1910s, observing: “Liang argued that the individual has a dual-self, the small self centered on personal interest and the great self based on the interest of the nation; the small self should always be secondary and submissive to the great self” (2011: 16). For many fake-fighters, it is not only their selves but their lives that are divided between activism and their ordinary work and family responsibilities. When Ye Guang started fighting fakes, he was employed in an official capacity at a bureau targeting the production and sale of fake and substandard alcohol. A reporter who learned of his work, he told me, compared him to film character Zorro, because “during the day he is the governor, in the evening he fights for justice” (2010). An article about Chen Xiaolan described her as a “female Don Quixote” because she was employed as a doctor when she started her fight against fake medical devices. Neither were able to maintain this double life for long, however. When Chen’s and Ye’s employers learned of their activities, they demanded they choose between their professions and their crusades against fakes; both became full-time fake-fighters shortly thereafter.

As romantic as comparisons to Zorro and Don Quixote may sound, the fake-fighters do not fight for some abstract notion of justice. Their fight is a moral fight: they fulfil their duty, even though it is often difficult, and even though they are not recognised for doing so, to force the party state to enforce the laws it has established to protect the well-being of the Chinese nation. In understanding the morality of fake-fighting, we must return to the question of “rights consciousness” as it pertains to consumer rights. To quote Perry:

Liang Qichao, modern China’s most influential proponent of ‘rights consciousness’ explicitly linked his concept to Mencius’ understanding of human morality. Liang’s notion of



rights implied an ethical responsibility toward the collective good, rather than a protection of individual freedoms: ‘As rights consciousness gets increasingly developed, people’s duties become increasingly strong’. (2008: 46)

Citing the work of Thompson (1971) and Scott (1976), Shue argues that “embedded in the very logic of legitimation advanced by a system of domination we can find the grammar that may be used most effectively by citizens and subjects in making statements in opposition and in resistance to that system” (2010: 45). If it is true that the legitimacy of the party state is based not only on delivering economic growth but also on guaranteeing the well-being of its people, or as Shue argues, on showing “benevolence,” the most moral thing one could do is show the leaders how to lead (see also Goldman, 2005).

The introduction to this issue cites Fassin’s (2009) definition of moral economy to argue that “moral economies should not be viewed as something that pertains exclusively to subordinate groups, but rather as moral systems that run parallel to economic systems” (2019). All economies, argue Palomera and Vetta, are moral economies, citing Thompson’s attention “to the web of ‘entitlements’ and ‘responsibilities’ which constitute the social and political basis of the economy or the market” (2016: 424). In its earliest deployments by Thompson and Scott, the moral economy lens was primarily historical – a means of understanding how economic transitions triggered popular rebellion or uprisings – and indeed, “moral economy seems particularly suited to interpret moments of historical rupture, where tensions between analytical dimensions – such as between the moral frameworks and the logics of accumulation – are exacerbated” (Palomera and Vetta, 2016: 428). As I have argued here, fake-fighters are tolerated precisely because they moderate these tensions by advancing a moral economy framework wherein the socialist party state is made capable of containing the excesses of capitalism by regulating the market. The ability to capture the dynamic interplay between state and society actors who are benefited and disadvantaged by particular economic systems is precisely what makes the concept of moral economy so analytically rich. As Palomera and Vetta summarise,

the structural inequalities generated by particular forms of capital accumulation – mediated by particular kinds of state regulation – are always metabolized through particular fields that we call moral economies. They can reproduce or strengthen patterns of capital accumulation that regulate social structure, but they can also alter and even short-circuit them. (2016: 414)

In his work on Japanese citizens concerned about radiated food, Sternsdorff-Cisterna finds that the Fukushima accident “motivated those in the population concerned about food safety to reconsider their relationship to the state and to assign novel meanings to their concepts of their duties as citizens” (2015: 456). He uses the term “scientific citizenship” to describe the changed relationship with the state that results from “the feeling that the state cannot be trusted to guarantee the well-being of the population, and citizens must build alternative channels to ensure the health of future generations” (2015: 456). This transformation is “catalyzed and mediated by the acquisition of scientific literacy” (2015: 456), in the same way the fake-fighters’ acquisition of legal literacy and

the ability to navigate the government bureaucracy transforms their political subjectivity. The difference is that scientific citizenship is enacted by circumventing the state, not working in concert with it. Fake-fighters evince a moral citizenship defined by a responsibility to assist the state in carrying out its duty to care for its citizens, which they enact when they assess products in terms of how they measure up against the law.

Moral citizenship is also an effort to redefine what it means to be a citizen in a marketized economy, where the state is no longer the source of housing, jobs, and consumer goods, but is still implicated in the supervision and regulation of these economic domains. In this sense, it resembles “biological citizenship,” a form of national belonging that emerged from the need to create new categories that did not exist under socialism (Petryna, 2004), and which has also been invoked as a means of excavating the biological foundations of inclusion and exclusion in modern nation-states (Rose and Novas, 2005). Among Chernobyl-exposed populations in Ukraine, for example, the language of bodily suffering anchors citizens’ claims on the state (Petryna, 2004). Asserting a biological citizenship in contemporary China could involve asserting, as this article has addressed, that being a Chinese citizen today means being at the mercy of state supervisory and regulatory bodies that have repeatedly failed to keep toxic chemicals and industrial additives from contaminating the food supply. Such a strategy, however, would be politically dangerous in contemporary China. Instead, the fake-fighters invoke a moral imperative to protect the bodies of their fellow citizens using the tool of the law.

## Conclusion

Nearly all the current and former fake-fighters I interviewed and the dozen or so others whose stories I read about describe their work as a natural outgrowth of their personal or professional lives. Many started their fake-fighting careers after seeking justice for a problem encountered in the market: a Mazda car for one, a real estate contract for another. Others entered the industry after witnessing regulatory failings in their own industries: Ye Guang in alcohol, Chen Xiaolan in medical devices, Gao Jingde in pharmaceuticals. This latter group tended to be more straightforward about how they see their role in society, about intervening when local or regional institutions are not carrying out their duty to regulate the market. While some relish their reputation as *diaomin* (刁民), or troublemakers, the trouble they make serves the needs of the state. Using a metaphor first employed by Wang Hai, Huang Zhihong’s website proudly proclaims: “We are the woodpeckers of the market economy – the more woodpeckers the less pests” (Huang, 2005). The exercise of consumer rights is thus depicted as a civic duty rather than a demand for political change. Although they remain a small and scattered community, the fake-fighters’ longevity and renown illustrates that despite hostility to political activism in contemporary China, particularly under Xi Jinping, there is still space for legal activism, so long as it cleaves closely to official discourse and is not perceived to threaten the party state.

It is the framing of their work as promoting the development and maturation of the market economy that distinguishes fake-fighters from the activists who have been the

targets of recent crackdowns. An emphasis on rules over rights, as Perry puts it, runs through their explanations of their work, but whether this indicates a kind of false consciousness or simply an awareness of potential political tripwires, it is not reason enough to doubt the motivations and convictions fake-fighters so clearly express. For Fassin, the “moral” part of the moral economy originally described by Thompson “corresponds to a system of norms and obligations,” a system that “guides judgments and actions, and distinguishes between what is done and what is not done” (2009: 1243–1244). Citing Honneth’s (1992) work on the concept of “recognition,” Fassin observes that “these norms are principles of good character, justice, dignity, and respect – in sum, of recognition” (2009: 12). In articulating the political subjectivity I have termed moral citizenship, fake-fighters re-frame their work as driven by duty rather than profit, but they also stake claim to a particular territory within a Chinese moral economy, and implicitly ask that their contribution be recognised. To return to the notion of the divided self, the concept of moral citizenship holds the potential to merge the desires of the self with the needs of the nation. Fake-fighters want their work to help realise their idealised vision of the Chinese market as a positive reflection of the nation. They would be happy, I heard more than once, if their services were no longer needed. As one fake-fighter jokingly told me: “It’s tiring running around to all these stores, if companies would just follow the law, I could quit” (Anonymous 2, 2010).

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