THE XINFANG SYSTEM: A MAJOR THREAT TO AN EFFECTIVE JUDICIARY

Vincenzo R. Palmisano*

The petitioning practice is deeply rooted in ancient Chinese history. As yesterday’s subjects were seeking solutions to their grievances by an emperor’s act of grace through the “letters and visits” system, today’s citizens still make extensive use of Xinfang (信访) in lieu of relying on China judiciary. In spite of its function as a safety valve for social tensions, this instrument at once overlaps with and delegitimizes the entire judicial system. It has its roots in the unfairness and effectiveness of judicial trials in Chinese courts and further weakens the judiciary’s public image. In its first part, the article investigates the many ways by which the petitioning system harms the judiciary on both sides: independence and its functionality. In the second part, it argues that, assuming the persistence of the Xinfang due to a variety of factors, the whole petitioning system, to be beneficial, should be regulated in a way that serves the aim of making the judiciary an effective one, instead of acting as a major obstacle to its reliability. In this part, proposals for a new arrangement of the petitioning system will be advanced.

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INTRODUCTION

The Xinfang, literally “letters and visits” is a traditional instrument for seeking justice from levels of the government superior to those who gave

* Ph.D. Candidate in “Roman law and unification of legal systems: Chinese law” at University of Rome Tor Vergata, Italy. Associate at Picozzi & Morigi law firm, Rome and Shanghai offices.
rise to grievances. As of today, the Xinfang system is the primary tool for dispute resolution in China.

More than a judicial instrument, it can be considered a governance tool, rooted in ancient Chinese history and then re-elaborated by the Communist Party. It was used—yesterday by the emperor and today by the new ruling class—with the same fundamental purposes: facing the principal-agent problem and give a hope to people whose grievances were ignored by local governments. For a large part of the Chinese history, it constituted the only channel of information to the central authorities about the real situation of the country.

To better understand the significance of the Xinfang phenomenon, it is useful to look at its numbers. On July, the 1st of the present year the State Bureau of Letters and Calls started an online petitioning service through its official website. Two hours later, the opening of the service the website crashed due to the enormous number of contacts, someone wrote of forty-six million potential petitioners. In 2011, more than six and a half million new civil suits were filed. For the same year, we have no official records on the amount of the annual rate of petitions, but the average rate of 11.5 million registered in 2002 seems likely to be realistic also nine years after. In some courts, the units of personnel devoted to responding to letters and visits far exceeds those involved with hearing civil cases. This trend of overwhelming preference for the use of Xinfang instead of formal legal channels, has been constant during the last ten years.

But how does Xinfang work? Xinfang regulations allow people to propose petition in theory on every sort of issue. According to the so called

2 2013. In fact, this paper was firstly presented at ECLS 8th Annual Conference, University of Oxford, 19 September 2013.
4 To be More Precise 6,614,049, CHINA STATISTICAL YEARBOOK 940 (China Statistical Press 2012).
5 In this paper, the word “petitions” will be used to indicate indifferently letters, visits, collective visits, faxes, phone calls and the recent possibility of online petitions.
6 Minzner, supra note 1, at 105.
8 For a definition of formal legal channels see Minzner, supra note 1, at 105.
9 “Conghua county (Guangdong Province) officials reported that, one of their “big cases” in 1984 was helping an anxious groom procure a place to hold his wedding ceremony”. Laura Luermann, Facing Citizen Complaints in China, 43 ASIAN SURVEY, 845-861 (2003).
“Qiu Ju”\textsuperscript{10}, aggrieved citizens, affected by unfavorable administrative acts or adverse courts decisions, file petitions at complaints office of local level, then moving on to the provincial level and possibly ending in Beijing if their grievances find no solution. The whole system works on common people’s assumption that the government failed on the local level but that the higher levels still work.

Virtually there can be a complaint office in every single building belonging to the government. The relation between all these offices is often unclear and the \textit{Xinfang} regulations, also in their most recent version, do not shed many light on them. Complainants tend to bypass local offices of the \textit{Xinfang} bureau—controlled by the local government—to approach higher level offices\textsuperscript{12}. However bypassing local \textit{Xinfang} offices in favour of direct appeals to higher authorities is expressly forbidden by the \textit{Xinfang} regulations\textsuperscript{13}, so often complainants are sent back to the same officials who gave origin to their grievances. Even in the remote case\textsuperscript{14} in which a petition receives a satisfactory answer from a higher authority, obtaining its effective implementation from local level governments could be extremely hard\textsuperscript{15}. It often gives origin to new petitions aimed at the enforcement of the results of the first complaint.

In recent years, another noteworthy phenomenon arose: “collective petitioning”. Several studies demonstrated that, the whole \textit{Xinfang} system rewards larger and more organized groups of collective petitioners\textsuperscript{16}. As a

\textsuperscript{10} From the movie “The Stoy of Qiujiu” directed by Zhang Yimou (1992).
\textsuperscript{11} Ethan Michelson’s definition.
\textsuperscript{12} “Skipping over the lower levels of government is not strictly illegal due to inconsistent \textit{Xinfang} regulations. Cadre responsibility systems also help create incentives to bring petitions to higher levels as early as possible. Local officials are subject to progressively greater disciplinary punishments according to whether petitioners express their grievances at the county, provincial or national level. Therefore, petitioners frequently attempt to skip levels of government, particularly low-level officials who are the least receptive to complaints about cadre administration. The practice is so widespread that one survey of rural petitioners found that, more than sixty percent of petitioners skipped at least one level of government.” Matthew Bruckner, \textit{The Paradox of Social Instability in China and the Role of the Xinfang System}, 4 CAMBRIDGE STUDENT LAW REVIEW (2008) 92-99.
\textsuperscript{13} Art. 16 of the “REGULATIONS ON LETTERS AND VISITS” (2005).
\textsuperscript{14} “According to a recent Chinese study, less than 0.2% of petitioners surveyed succeeded in having their complaints addressed.” Minzner, \textit{supra} note 1, at 106.
\textsuperscript{15} “[…] referrals issued by the State Bureau for Letters and Visits often led nowhere. […] Even more to the point, referrals issued by the SBLV were sometimes dismissed by local authorities as “waste paper, less useful than toilet paper”. Lianjiang Li, Mingxin Liu, & Kevin J. O’Brien, \textit{Petitioning Beijing: The High Tide of 2003-2006}, 210 THE CHINA QUARTERLY 313-317 (2012).
\textsuperscript{16} “The majority of people who make complaints by visits has mastered the practice: a major ruckus leads to a major resolution, a small ruckus leads to a small resolution, and no ruckus leads to no resolution” Zhao Donghui, \textit{A Bottleneck in the Letters and Visits System in Urgent Need of a Breakthrough: Let the Sentiment of the People Flow Upwards Unobstructed (Xinfang de Tizhi Pingjin Jidai Tupo: Rang Minyi Shun Chang Shang Song)}, LIAO WANG 40 (October 06, 2003). In Ethan Michelson, \textit{Causes and Consequences of Grievances in Rural China}, PAPER PREPARED FOR THE CONFERENCE ON SOCIO-ECONOMIC RIGHTS IN CHINA (Dickinson College, April 16-18, 2004).
result, people mastered the rules of the game lodging complaints through collective petitioning involving always more people. Consequently the government, worried by the dimensions of the phenomenon, tried to clamp down on collective petition with a series of countermeasure. Firstly, the 2005 regulations clearly stated that, for every complaint personally presented, the number of the representatives shall not exceed five\textsuperscript{17}. Secondly, the most controversial measure was certainly the imposition on local authorities to establish and improve a responsibility system at their level\textsuperscript{18}. The responsibility system rewards local cadres capable of meeting goals in a variety of sectors, and punishes those who fail to meet them affecting their career expectations. Among key sectors for the cadres performance review is social stability, and one of the most important elements used to evaluate its fulfillment is the number of petitions received by the higher authorities. However, as Minzner wrote, “Xinfang responsibility systems have a critical common thread: they discipline officials for the mere occurrence of mass petitions”\textsuperscript{19}. Which means “strict liability on government officials for mass petitioning behavior of individuals under their jurisdiction, regardless of the precise nature of the petition”\textsuperscript{20}. This has provoked two main consequences: by one side local governments engaged into a series of violent practices to prevent petitioners from reaching the higher Xinfang offices; by the other side, petitioners took strength from these behaviors looking them as the symptom that cadres are scared by their petitions.

Despite of all its deficiencies, Chinese people need to know that, the petitioning system exists and that whenever they have grievances they can file a complaint. The widespread use of the petitions is a direct consequence of the persistent trust in the central government\textsuperscript{21} and a sign of distrust of courts. Its existence has so far acted as a safety valve for social stability\textsuperscript{22}, funneling people’s outrage into manageable channels, preventing them from

\textsuperscript{17} Art. 18 of the “REGULATIONS ON LETTERS AND VISITS” (2005).
\textsuperscript{18} Arts. 7 and 40-44 of the “REGULATIONS ON LETTERS AND VISITS” (2005)
\textsuperscript{19} Minzner, supra note 1, at 152.
\textsuperscript{20} Id.
\textsuperscript{21} For a deeper analysis of this persistence and for a definition of “center” see Lianjiang Li, The Magnitude and Resilience of Trust in the Center: Evidence from Interviews with Petitioners in Beijing and a Local Survey in Rural China, 39 MODERN CHINA 3 (2013). See also Li Liu O’Brien, supra note 13.
\textsuperscript{22} “Although the chance for complainants to see direct intervention from high ranking officials is small, there is still a possibility. It is this possibility that functions as safety valve for social stability”, Guosong Guo, “Shenshi Xinfang” (Nanfang Zhoumo, November 13, 2003) in Yongshun Cai, “Managed Participation in China”, 119 POLITICAL SCIENCE QUARTERLY 425-448 (2004). See also Matthew Bruckner, The Paradox of Social Instability in China and the Role of the Xinfang System, 4 CAMBRIDGE STUDENT LAW REVIEW 92-96 (2008), contending that “Xinfang prevents social disorder by acting as a pressure release valve”.
snowballing into violent large scale demonstrations.

I. RELATIONSHIP BETWEEN PETITIONING AND JUDICIAL SYSTEM

A. Preference for Xinfang over Judiciary

Although this is not exactly the aim of this paper, we should first try to answer a preliminary question: why people prefer the petitioning channels instead of relying on the judiciary? It has already been reported that as a matter of fact, today the Xinfang system is the primary system of dispute resolution in China. It’s somehow ironic to notice that, also the courts handle more petitions through their internal Xinfang offices than lawsuits. People avoid to bring lawsuits basically and fundamentally because courts lack the power and the will to challenge local and national government23. In other words, aggrieved citizens perfectly perceive who really has the power to change things and where does this power is located; in their perception this place is not the court.

Other important reasons why it is used far more often than the formal legal system are because it is easier to use, cheaper, more accessible, more participatory, less adversarial and more manipulable24.

But keep focusing on the main reason of preference, this powerlessness mainly results from the lack of independence which affects the Chinese judiciary. Chinese judges are exposed to a wide spectrum of interference during trials, systemic or non-systemic25 (depending on whether the intervention has some sort of legal coverage or not). Although the current constitution provides that, “the people’s courts exercise judicial power independently, in accordance with the provisions of law, and not subject to interference by any administrative organ, public organization or individual”26, the lack of judicial independence, due to a variety of factors, is plain to see.

First of all, judges are nominated and appointed by the standing committee of the local people’s congress27, it usually does nothing but

23 RANDALL PEERENBOOM, CHINA’S LONG MARCH TOWARD RULE OF LAW 484 (Cambridge University Press 2002).
24 Bruckner, supra note 20, at 93.
26 Art. 126 of the Constitution of the P.R.C.
confirming names already chosen by the local section of the party. The same committee can remove them at their will; it also decides the judges’ salary and the funds owed for court’s operation.  

Secondly, according to common view of judges as civil servants, they are also under a responsibility system not different from the one provided for local cadres that we already mentioned above. So similarly we can have sanctions for those judges whose cases give raise to a large number of petitions to higher level authorities.

Finally, we have the procedure known as individual case supervision, which is an institutionalized tool to exercise a direct control on lawsuits’ outcome. To the extent of this paper, it’s enough to say that, in China, even if a lawsuit completed its course through a first instance judgment and an appeal to a higher court, becoming “legally effective”, it can still be overturned through the procedure for trial supervision. Among those allowed to start off this procedure there are the parties of the suit, who are subject to a time limit of two years. Other actors like the People’s Procuratorate, Courts, People’s Congresses at local and national level, the political-legal committee of the CCP, have no time limit to file an application for supervision. Furthermore as there is no limit regarding the time, there is no limit to the number of times that the supervision procedure may be applied. Needless to say, under the above mentioned conditions, it’s hard to affirm that, Chinese law includes any degree of finality.

B. Overlap between Xinfang and Judiciary

During an interview, the author did in Jinan with a local lawyer, partner of a major law firm in China, after having exposed which would

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28 Suisheng Zhao, Debating Political Reform in China: Rule of Law vs. Democratization, 147 (M.E. Sharpe 2006).
30 “Since the Chinese government created the open door policy and re-established its legal system in 1978, it has signed a number of international or bilateral treaties on mutual recognition and enforcement with foreign countries. In those treaties, the term “final” and/or “conclusive” can hardly be read, even though such terms are generally used by a foreign country to describe the binding power of a domestic civil judgement. Instead, a Chinese approach was taken, i.e., a decision is enforceable in the jurisdiction of a signatory if it is a “legally effective”. In Nanping Liu, A Vulnerable Justice: Finality of Civil Judgements in China, 13 COLUMBIA JOURNAL OF ASIAN LAW 35-37 (1999).
32 Nanping Liu, supra note 27, at 73.
33 From May to July 2013, I conducted a series of interviews in Gansu, Shandong and Guangdong. The interviewees were mainly legal practitioners but sometime accompanying people took part in it giving me some interesting cue.
have been the subject of my question, he suddenly wanted to point out that, he was not the kind of lawyer which uses petitions to make pressure on judges during an ongoing trial. The Xinfang regulations actually do not allow parties to file petitions when the same matter is under judgment by the court\textsuperscript{34}. The reality says that, this behavior is much more frequent than how it seems, and that it is aimed at exerting pressure on the judges involved with a case, drawing local people’s congress or party’s attention on it.

In another case, the author interviewed a public employee in Lanzhou (Gansu region) and one of the questions was if for a completely private matter, she would file a suit at the local court or write a petition to the local bureau of letters and calls. She answered that, she would avoid to file a suit because not sure if the judges would recognize her status as gongwuyuan\textsuperscript{35} or not; allegedly Xinfang bureaus would do\textsuperscript{36}. The answer was the same when the author asked about which would be her reaction to a hypothetical compulsory administrative measure, such as the seizure of property.

As we have already mentioned above, one of the functions\textsuperscript{37} of the petitioning system is handling individual grievances. This function is generally assigned to the judicial system; but whereas the judicial system operates through rules directed at ensuring a fair trial and not an abstract concept of absolute justice, the Xinfang operates through an extremely opaque set of regulations and party guidelines, aimed at allowing higher cadres’ intervention in cases likely to generate social instability. Even if aggrieved people is perfectly aware that, the chances to obtain an answer to their petitions is small\textsuperscript{38}, there is still a possibility to obtain an effective response; this is perceived as much better than filing an expensive suit and obtaining a favorable response that cannot be enforced. So what’s happening is basically that the Xinfang system, instead of being perceived as a last resort for Chinese citizens to assert their rights, represents the ordinary mean of dispute resolution, slowly relegating the ordinary judicial system to a position of last resort.

Coming back to my interviews and considering for a while the answer of Lanzhou’s interviewee, in her words, we can find a symptom of the

\textsuperscript{34} Art. 21 (1), of the “REGULATIONS ON LETTERS AND VISITS” (2005). The previous 1995 “REGULATIONS CONCERNING LETTERS AND CALLS” did not say anything on the matter, implicitly allowing repeated petitions with an ongoing trial.

\textsuperscript{35} Public employee.

\textsuperscript{36} This is the same line of reasoning we can find in Mary E. Gallagher, Mobilizing the Law in China: Informed Disenchantment and the Development of Legal Consciousness, 40 LAW AND SOCIETY REVIEW 783 (2006), with regard to State Owned Enterprises workers.

\textsuperscript{37} Minzner, supra note 1, at 120.

\textsuperscript{38} See note 12.
ongoing overlap between the Xinfang and the judicial system. When the author asked about which would have been her choice between filing a suit or write a petition, she considered the two possibilities on the same plane. She mentally considered the judiciary and the Xinfang two alternatives situated exactly on the same level, then she chose the petitioning system because, up to her, more suitable to see acknowledged her personal position, but the point of departure was a position of substantial overlap.

A similar assumption can be extracted from Minzner: “While tension exists between the principles governing Xinfang institutions and petitioning practice on the one hand and formal legal channels on the other, there is often not a black and white choice between the two in practice. Some Chinese citizens attempt to use both simultaneously to resolve their grievances, and there is substantial overlap between Xinfang and legal institution in practice”.

C. Petitions as an Instrument of Appeal against Court’s Judgements

Another phenomenon worthy to be mentioned is the use of the petition as an instrument of appeal against sentences given by the court of first instance. Petitions against court’s decisions that have already taken legal effect are in fact extremely common. It has slowly became a sort of additional appeal process—additional to the first instance and appeal—to be used against final decisions through the individual case supervision we quickly examined above.

In “1982 Civil Procedure Law”, there was a sort of institutionalized complaint system against court’s final decision; it was then abolished in the 1992 version of the Civil Procedure Law because such a right lended itself to abuses from the parties, especially because the court of second instance was obliged to review the final judgment.

Probably due also to the extremely short time limit to file an appeal against a decision of first instance, a good percentage of petitions involving legal matters are appeals of judicial organ’s decision of first instance. These are all potential lawsuits taken away from the judicial system.

Lastly, with regard to administrative law matters, judiciary’s position is

39 Minzner, supra note 1, at 105 note 11. See also Mary E. Gallagher, supra note 33, at 797.
40 Nanping Liu, supra note 27, at 82 note 181.
41 Only “15 days after the date on which the written judgment was served”, Art. 147 of the Civil Procedure Law of the PRC (2005).
even more complicate. In addition to the judicial path established by the 1989 Administrative Litigation Law, we have two further administrative procedure: the Xinfang and the administrative reconsideration. Through administrative reconsideration, citizens can challenge an administrative decision by filing an application for review at the next superior level within the same branch of the government. Differently from administrative litigation which can be used to challenge only concrete administrative acts, with administrative reconsideration superior levels are asked to review legality and pertinence of administrative conduct including abstract act\textsuperscript{43}. Anyway, the number of first trial administrative cases and those concerning the reconsideration process are extremely low. In 2011, there were only 136,353 cases\textsuperscript{44}, while administrative reconsideration steadily keeps under 70,000. In this case, petitioning system realizes a substantial overlap not only with the judiciary but also with administrative reconsideration, whose differences with Xinfang are extremely hard to be found\textsuperscript{45}. Notwithstanding citizens still prefer Xinfang to these others, due to its main characteristic of cheapness and repeatability, and because less exposed to the influence of local officials.

\subsection*{D. Interim Conclusions}

In conclusion, to summarize the assumptions debated in this paragraph, there are certainly elements of difference between the judicial system and the Xinfang system, but these are not enough to impede a perception on citizens side of substantial overlap among the two. Generally, writing a petition is more like imploring higher authorities’ help instead of pursuing claim with solid legal ground. In addition, Xinfang system act as a tool for dispute resolution only \textit{en passant}, while its main purpose is how to effectively rule the country\textsuperscript{46}. It does not want to appear as characterized by impartiality, on the contrary, it operates—with an extremely high degree of paternalism—through the personal power of single officials and it’s conditioned to their willingness. As Minzner remarkably pointed out, “Xinfang institutions […] represent the rule of man (or Party), not the rule

\begin{footnotes}
\item[45] Apparently while the latter can be filed potentially anywhere, citizens have to file administrative reconsideration at the next superior level within the same branch of government.
\item[46] Minzner, \textit{supra} note 1, at 121.
\end{footnotes}
Notwithstanding these are all academics considerations, far from Chinese citizens perception, who look at Xinfang as an alternative path to justice, parallel or superior to ordinary judiciary.

II. THE AUTHOR’S PROPOSAL

Considering that, as it is configured now, the Xinfang system represents one of the major obstacle to an effective judiciary, in this second part, the author will try to advance some proposal for a new less harmful arrangement. These proposals are conceived as a concrete model to be applied into the current political framework and not as a hypothetical speculation on the hope of a future institutional change.

A. Preliminarily the Author Consider Worthwhile to Examine the Main Positions Currently Object of High Debate on the Topic

Someone hopes for a strengthening of the petitioning system. Promoters of a stronger petitioning system—a significantly quite common position among SBLC’s official and party representatives—usually hope for more supervising powers on courts from people’s congresses, to the only extent of giving time to the judiciary for its improvement. Others, even if aware of the “tremendous side effect” of the Xinfang, find the key of a feasible cohabitation into a more formalized supervision over judges. Still

47 Id. at 105.
48 Zhuoyan Xie, Petition and Judicial Integrity, 2(1) JOURNAL OF POLITICS AND LAW 24-27 (2009).
49 According to Yu Jianrong’s lecture at Peking University’s Library on December 2, 2004 [中国信访制度批判 Available at http://news.xinhuanet.com/report/2005-04/21/content_2860076.htm (last visited Aug. 16, 2013)], State Bureau of Letters and Calls’ officials are for a strengthening of the Xinfang system and strongly against Yu Jianrong’s proposals, of which below in the text.
50 Zhang Chengqi, a deputy from Hebei Province to the National People’s Congress (NPC), received many such complaints from local people after his address was published by news media. He said it reflects the people’s trust in NPC deputies and the people’s congress should play a bigger role in supervising how the complaints are handled. Zhang’s view is echoed by Ying Xing, an associate professor from the China University of Political Science and Law, who said that, the people’s congress, whose deputies are representatives of the public, should be empowered with more supervising weight. But from a long-term view, the system of Xinfang will likely be abolished when China’s legal system is improved, he predicted. If the problems and complaints can be settled through legal procedures, the complaint-lodging to party and government departments will disappear, he said. While under the present situation, the country should strengthen the organizing work of Xinfang so as to give the public a chance to vent their dissatisfaction, according to Ying.” CHINA DAILY (March 31, 2004). Available at http://www.chinadaily.com.cn/english/doc/2004-03/13/content_314386.htm (last visited Aug. 16, 2013).
51 Zhuoyan Xie, supra note 45, at 27.
52 Id. at 28.
others suggested that, the Xinfang system “serves to correct and therefore strengthen the legal system”53.

All these arguments meet a common issue. Keep using the Xinfang to exert influence on ongoing trials or to overturn final decision, will completely delegitimize the judiciary in Chinese people’s eyes. If it’s possible to interfere with judge’s work simply pushing by the right side, then the whole judiciary has no mean to be.

Minzner sees a scenario where “the development of a modern court structure and the passage of laws as the Administrative Litigation Law may be creating yet another locale for the pursuit of traditional petitioning practices. Rule of law institutions may be merging with traditional Chinese petitioning institutions, instead of displacing them. Rater than indicating the emergence of Western-style rule of law, China may be experiencing the evolution of a modernized version of the traditional petitioning process, perhaps enlarged in scope and shape, but still recognizably the same”54.

Yu Jianrong, one of the main Chinese experts on Xinfang, in 2004 conducted an extensive study whose conclusive proposals were: (1) weaken the power of Xinfang institutions; (2) removing the responsibility system; (3) gradually shifting petition tasks to local people’s congress55.

B. My Proposal for a New Arrangement of the Petitioning System Moves from the Observations on Its Overlap with Formal Legal Channels Carried out in Part One

Also it takes into account its essential function as a safety valve for social stability. Many scholars argue that, Xinfang is always less functional as a social stabilizer, and always more a cause of social unrest, which fuels “a destabilizing circle of protest and repression”56. Notwithstanding the Xinfang system, while inefficient and ineffective, has nevertheless been useful in absorbing tensions arisen from recent years’ economic reforms.

In today’s system, the central government is seen as a neutral judge, called to settle disputes between citizens and local governments. Without the petitioning system, the central government would be seen no more as a

54 Minzner, supra note 1, at 176.
neutral part, but much more as an *unicum* with the local level. Consequently
the author strongly believe that, a hypothetical abolition of the petitioning
system will be perceived by the people as an act of gratuitous
authoritarianism, with unpredictable consequences also in the short term.

What beyond any doubt must be eliminated, or at least totally changed,
is the responsibility system whose failure is today plain for all to see. Its
inefficiency made of petitioning one of the main factor of social unrest in
today’s China.

Considered what we asserted in the first two part of this short paper, a
reform of the *Xinfang* system must focus on the realization that this
instrument at once overlaps and delegitimizes the entire judicial system. The
author contend that, the reorganization should aim first of all at re-
establishing the proper hierarchy between petitioning and the judicial
system. It is necessary to make of the latter the ordinary mean for dispute
resolution of all sorts, moving the *Xinfang* to a less harmful position for the
judiciary. This can be done giving to the petitioning system the role of a
extraordinary mean of appeal toward final decisions. In this way, citizens
that want to file a petition have to demonstrate that, they already gave the
court the chance to solve their grievances. Having already accomplished an
attempt to obtain justice through courts has to play the role of a compulsory
condition to be satisfied in order to file a petition.

Moreover the whole structure of the petitioning offices, to comply with
the suggested role of petition as an extraordinary mean of appeal, has to be
thoroughly reconsidered. Having *Xinfang* offices at all levels represents an
incentive to bypass courts; on the contrary, place lowest level *Xinfang*
offices not below the intermediate people’s court could be an appropriate
solution. At the same time, access to the judicial system has to be improved
in rural areas where there is lack of qualified judges and lawyers. Trying to
contain the use of *Xinfang* without extending access to the courts would
have the only effect to deny the hope of justice to tens of thousands of
people every day.

**CONCLUSION**

Even if today the *Xinfang* systems represents beyond any doubt the
disease and not the cure, it cannot simply be abolished from one day to the
next. The abrupt abolishment of the possibility for the population to file
petitions may result into unpredictable social consequences.

On the contrary, an overall improvement of the effectiveness and the
accessibility of lower courts, together with other expedients like those
mentioned in the second part of this paper, would result into a natural reduction of the impressive number of petitions filed every year.