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The National Supervision Commission: A New Anti-corruption Model in China

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ABSTRACT

Based upon interviews, field observations and content analyses, this article argues that continuing from institutional reforms and preparations during the campaign, the implementation of the decisions to establish the National Supervision Committee system (the SC system) has transformed China's previous dual-track anti-corruption system into a single anti-corruption agency model in the three experimental locations. Merging with the party's Discipline Inspection Committees (DICs), the SCs have absorbed the anti-corruption force of the procuratorates and have become the only anti-corruption agency. The local party leaders' influence in anti-corruption substantially decreases. The party center has taken several steps to maintain its control in the new model, rather than relinquishing control or necessarily promoting the rule of law. Lacking empowered outsiders and motivated agencies for providing supervision, the SCs still rely upon strong political leadership and the supervision against manipulation of their anti-corruption power is urgent.

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1. Introduction

Corruption and anti-corruption in China are enduring research topics in anti-corruption studies. Previous literature tends to focus on how corruption is defined, produced, or caused in China; what consequences are or can be caused by such corruption; how effectively the anti-corruption agencies work, especially the DICs; and how these anti-corruption measures have affected the economic, political, and social development of China (Young, 1984, Josephs, 2000, Manion, 2004a, Wedeman, 2005, Quade, 2007, Gong, 2008, Chan and Gao, 2008, Ko and Weng, 2011, Ling, 2011, Mathur and Singh, 2011, He, 2012, Lewis, 2012, Gong and Ren, 2013a, Zeng and Wu, 2013, Birney, 2013, Hualing, 2013, Zhu and Wu, 2014, Guo, 2014a). They have tried to explain corruption in China from different angles and to analyze whether the Communist Party of China (hereinafter, the CPC) could win the battle against corruption. The literature analyzing China's anti-corruption system before the recent anti-corruption campaign has described the system as a dual-track and dual-leadership system (Manion, 2004b, Gong, 2008, Guo, 2014b, Hualing, 2015, Zhu, 2015, Keliher and Wu, 2016). "Dual-leadership" means that both the local party leader and the superior anti-corruption agency lead the local anti-corruption agency. Before recent reforms, the local party leader substantively controlled the nomination and promotion of the local anti-corruption agency leadership

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and provided the funds, equipment, and staffing capacity for the local anti-corruption agency. This meant that the local party leader actually prevailed over the superior anti-corruption agency in local anti-corruption issues.

Under the “dual-track” system, the first track involves the DICs investigating the case, primarily as an internal CPC disciplinary matter, and then deciding whether to transfer the case to the prosecutors. The second track is the judicial system, with the prosecutors investigating ordinary corruption cases and prosecuting all corruption cases. Such a “dual-track” system failed to combat local corruption effectively, because both tracks were primarily controlled by the local party leaders, making the local anti-corruption agencies subject to influence and “capture” by the agencies they were supposed to supervise. Previous research has shown such a system failed to function well due to these institutional and structural weaknesses (Manion, 2004b). In particular, the functional failings of China’s essential anti-corruption agency, i.e. the DICs, due to the interference of local party leaders has been deemed a main reason for the continued serious and syndicated corruption in China, despite frequent anti-corruption campaigns. Another key problem is the dominant role of the DICs and consequently the absorption of the role of prosecutors in anti-corruption work. The local procuratorates have been perceived as failing to effectively investigate and prosecute corruption resulting in ineffective anti-corruption efforts due to the lack of independence and capability under the dual-leadership system and the dominant role of the DIC in anti-corruption work (Manion,). There are articles discussing the history, dominant role, and current organization of the central and local DICs (Gong, 2008); the problems of such structures, including the absorbed role of legal institutions, political selectiveness, and lenient punishments (Broadhurst and Yang, 2016); and the lack of measures to prevent conflicts-of-interest (Gong and Ren, 2013b).

Targeting the syndicated corruption situation in China, the new leadership of China has initiated the recent strong anti-corruption campaign. This campaign has very different characteristics than previous ones, which had short durations, normally around a year, relied on political pressure to activate ordinary anti-corruption agencies and mobilize the general public, required both DICs and prosecutors to significantly increase their investigation of corruption cases, encouraged self-surrender in exchange for lighter punishment, and ended with the removal of only a few political figures and the prosecution of very few corruption cases (Manion 3 above). Unlike these previous short-lived, lenient anti-corruption campaigns, China’s current leadership has shown a sincere commitment to combating corruption in the recent campaign, which has lasted nearly five years and is still ongoing. Since the 18th Plenum of the CPC, over 100 provincial/ministerial-level cadres (“tigers”) and over a thousand city/prefecture-level cadres have been investigated and removed from positions for corruption, including Yongkang Zhou, a previous standing committee member of the Politburo, Caihou Xu, the previous vice chairman of the Central Military Commission, and Rong Su, the previous vice chairman of the Political Consultative Conference. This is quite astonishing, considering from 2009 to 2012, the total number of tigers caught was only 26 (Roundtable before the Congressional-executive commission on China, 2013).

Recent literature has also studied the recent strong anti-corruption campaign. Many have compared it from a political perspective with previous anti-corruption campaigns and considered them to function similarly as political instruments (Guo, 2014b). They have pointed out the risk of the current anti-corruption campaign being short-lived and deemed it an instrument for recentralization by the new leadership, adverse to the rule of law in China, because the campaign has been observed to be applied selectively for political purposes, to marginalize the legal system, to keep the system closed off and non-transparent, and even to suppress the civil society (Zhu, 2015). However, some literature also noticed the institutional reforms carried out during the campaign and pointed out the gradual transformation of the old anti-corruption system (Li and Deng, 2016a). The new leadership has taken many measures to reform the old anti-corruption system during the campaign. Given the campaign’s considerable lasting strength of over four years, its ability to mobilize anti-corruption forces nationwide, the handful of institutional reforms put in place during the campaign, and the recent decision by the party center (The party center in this) to establish the National Supervision Committee, which pushes the campaign further into another climax and a second stage, it is important and urgent to understand where the campaign is really going. Is it just a campaign, as the previous campaigns, or a transformation of the old anti-corruption system? How will the problems of China’s old anti-corruption system be tackled with?

This article sheds some light on these questions. The party center of China made the decision to establish the SC system in November 2016 (Beijing, 2016). Later, the National People’s Congress Standing Committee (NPCSC) passed the Decision to Establish Supervision Committees (SCs) Tentatively in Beijing, Shanxi and Zhejiang Provinces (the NPCSC Decision Approving the Establishment of the SC System in Beijing, 2016), confirming the party center’s decision. Both decisions state that the SC is to consolidate multiple anti-corruption forces for greater efficiency, with the National SC sitting at the top and two or three lower levels of SCs at the provincial- and city-levels. Previously, both the DICs and the prosecutors were the routine anti-corruption forces in China. With the Central DIC (CDIC) and provincial DICs playing a leading role in senior official or hot corruption cases, the prosecutors were important figures in combating ordinary local corruption and had a strong staff strength and good equipment (Li and Deng, 2016b). According to the two Decisions, the previous multiple anti-corruption agency institutions in China will become united as one SC system which will have the same staff as the DICs, under two titles. Beijing, Shanxi, and Zhejiang Provinces have been selected to be the three experimental locations to carry out the reform initially, moving the anti-corruption departments in the procuratorates to the corresponding DICs (the NPCSC’s decision, 2016), and preparing for the nationwide implementation of such reform in the 19th Plenum of the party (Interview by the author of two department leaders recently transferred from the procuratorate to the SC in Beijing in, 2017). Such decisions indicate fundamental structural reform in China’s anti-corruption system. If the plan is carried out as indicated in the decisions, the anti-corruption force of the prosecutors and the DICs will be merged to become a single anti-corruption agency and China’s old dual-track system will transform into a single anti-corruption agency system. After a series of

interviews of prosecutors and DIC officers in Beijing, Shanxi, and Zhejiang, and several field observations and content analyses of internally-circulated documents, this article argues in the first section that the plan indicated in the decisions has been steadily carried out in the three experimental locations and the anti-corruption system in the three locations has transformed into a single anti-corruption agency system.

The next question considers how much the new system differs from, and whether it will work better than, the old one. Previous literature generally looks at the relationship between the anti-corruption agency and local party leaders and the role of the legal system in anti-corruption efforts to analyze the capacity and functionality of the anti-corruption system (Manion, 2004b). As indicated above, they summarized the main problems of the old system to be the interference of local party leader and the absorbed role of the legal system in fighting corruption. Thus, this article takes Beijing's plan as an example, studying it through interviews and field observations, and analyzing the leadership of local party leaders in the new system and the relationship between the prosecutors and the new anti-corruption agency. This article argues in the second section that the interference and arbitrariness of local party leaders in local anti-corruption efforts would significantly decrease in the new system. With regard to the role of the rule of law in the new system, it is not easy to understand what is really going on.

On its face, the role of the legal system seems to be strengthened under the new anti-corruption system. Besides shrinking the role of the local party leadership in anti-corruption, the CPC has taken several other steps prior to the decision establishing the SCs to move anti-corruption work out of the local party's control and to emphasize the role of the judicial system in anti-corruption work – such as strengthening the seamless connection between the DIC and the procuratorates, so as to remove the arbitrariness in the DIC's selection of cases to transfer for prosecution, and leaving all cases possibly involving criminal violations to be handled by the procuratorates. Moreover, the new SC system consolidates the DICs and the procuratorates' anti-corruption forces, and the new Law on Supervision Committees (SC) will regulate the SCs' anti-corruption behavior, bringing the DICs' previously discretionary behavior under legal regulation. It would be natural to believe that such efforts would weaken CPC control and promote the rule of law. However, based on a series of interviews and field observations of the practices establishing the SCs and analyses of the institutional reforms taken during the campaign, the characteristics of the legal system, and the relationship between the recent campaign and the decision to establish the SCs, this article argues in the third section that the CPC efforts to move anti-corruption into the SCs actually serves as a way to weaken local protectionism and consolidate central CPC control, rather than relinquish control.

This article introduces and develops the concept of the CPC's "leading control" over anti-corruption work. This concept helps understand how the new anti-corruption system actually serves to strengthen the central authority of the CPC. "Leading control" refers to the CPC's continued dominance over anti-corruption work, despite a dramatic shift away from traditional mechanisms of local party leaders' control and towards the mechanisms in the new system. New mechanisms that help realize this "leading control" of the CPC include: (1) institutional arrangements that centralize control over local anti-corruption agencies, (2) expansion of the DIC system and preparations for the SC system, (3) cultivation of a well-controlled anti-corruption agency, (4) vague and incomplete anti-corruption laws that leave more room for party control, and (5) the provision of clear instructions and the establishment of a party rule system in anti-corruption. Thus, although the local party leaders' interference would be restricted in the new system, it is substituted with the party center's control, which is still political, rather than with legal measures. Vague and incomplete anti-corruption laws and a lack of independence cause the legal institutions to remain weak in the new system. Consequently, the new system has the risks of being short-lived and of allowing arbitrary and abusive agency behaviors due to insufficient supervision over the single anti-corruption agency and its dependence upon the strong commitment of the party center leadership. This article concludes with a discussion of the remaining challenges.

2. The recent anti-corruption campaign and the decision to establish the SC

As indicated above, the recent anti-corruption campaign differs substantially from previous ones in its size, scope, length, mode, and seriousness. The number of provincial/ministerial-level officials caught in the campaign accounts for near 10% of all incumbent ministerial-level officials nationwide. Over 90% of those caught in 2012–2015 have been transferred to judicial proceedings and over 90% of the concluded cases have been prosecuted and convicted (the media report at: [http, 1231](http://1231)). Moreover, targeting the well-noted problems of the anti-corruption agencies, the recent campaign made many efforts to institutionally reform the local anti-corruption system while pushing anti-corruption work forward, including centralizing control over local anti-corruption agencies, specializing the mission of the DIC in supervision of the anti-corruption agencies, and improving both party and legal anti-corruption rules (Li and Deng, 2016c). In light of President Xi's talk at the beginning of the campaign, these characteristics of the recent campaign indicate that it is part of an overall large-scale reform plan. President Xi and CDIC Secretary Wang emphasized that the fight against corruption is a systematic and continuous task that will be carried out through three steps: (1) making officials afraid to be corrupt; (2) making officials unable to be corrupt; and (3) making officials unwilling to be corrupt (President Xi's talk at: [h, 2017](http://1231)). The campaign is understood to be part of the first step and the institutional reforms carried out during the campaign were to prepare for the more fundamental reform to follow, which now unfolding as the building of the SC system.

The recent decision to establish the SC system is built upon those institutional reforms. With this decision, the campaign has proceeded to the second step – making officials unable to be corrupt – through reform of the previous routine anti-corruption system, together with reforms of the official asset reporting system, the cadre selecting and promoting institutions, and of governmental power in the markets. The party center's decision to establish the SC, Wang Qishan's later talk

mobilizing the implementation of this decision (Wang Qishan's talk at, 2016), and the NPC Standing Committee's later decision to confirm the establishment of SCs in the three provinces indicate that the DICs will become the sole anti-corruption agency under the new anti-corruption system. First, both Decisions state that the National SC will be of equivalent rank to the State Council and the SC system will work jointly with the DICs to have the same staff working under two titles, i.e. 合署办公 (*he shu ban gong*). Through these measures, the DICs will expand from a party organization to a national agency and the CDIC will be upgraded from a ministerial-level agency to be a national agency equivalent to the State Council, in the name of establishing the SC system. Second, Wang's talk and the NPCSC's Decision explicitly clarify that the anti-corruption-related departments of the procuracy system – including the Anti-corruption Bureau, the Anti-dereliction of Duty Department, and the Corruption Prevention Department – and the National Corruption Prevention Bureau system will be transferred entirely to the SC system, including at least the people and the equipment thereof. After the transfer, these agencies will become departments of the SCs and thus subject to the SCs' leadership, which is the same as the leadership of the original DICs, and the procuracy will have no authority to investigate corruption. However, the prosecutor still has the monopolistic power to prosecute cases. The DIC, in the name of SC, will then be able to command the anti-corruption forces originally in the procuracy system, and will become the only agency able to investigate public corruption. Its only duty will be to prevent corruption and supervise the integrity and dereliction of duty of public officials. It will be able to use the investigative measures possessed by both the original DICs and the prosecutor's anti-corruption-related departments, including Appointed Interview (约谈), and legal investigative measures. It will supervise both party members covered by the DICs and public officials, including non-party officials, and private entities related to public corruption, such as bribers, originally covered by the prosecutors. Additionally, the SC, as the DICs, will have the power to decide disciplinary punishments, and the power to decide whether to initiate preliminary and formal investigations of disciplinary and legal corruptive violations, and whether to transfer cases to the prosecutors for prosecution.

Were the plan in the Decisions really carried out in practice, the power of the prosecutors in anti-corruption would decrease significantly, as it would no longer be able to investigate any corruption case and China's previous dual-track anti-corruption system would become a single anti-corruption agency system, with only the SC/DICs investigating public corruption cases. With this in mind, the author interviewed 24 prosecutors and 15 DIC officials from the three experimental locations – Beijing, Shanxi, and Zhejiang – and conducted content analyses of internal documents, as well as publicly available materials and media reports (Interviews of the prosecutors, 2017a). Based on these studies, as of May 2017, all the provincial-level SCs and the majority of the city-level and county-level SCs have already been established in Beijing, Shanxi, and Zhejiang. Relevant prosecutors at the three levels have been transferred to the SCs. The transferred prosecutors include all party member prosecutors from the anti-corruption departments of the procuratorates, including from the bribery/graft-related crimes and dereliction crimes investigation departments, and the directors and deputy prosecutors general in charge of these investigations. As a result, after the transfer, the procuratorates have no remaining force to investigate corruption cases. The SCs are built upon the corresponding DICs, which means that they are located where the DICs are located, their structures follow the DICs' organization, and the transferred prosecutors have been moved into the DICs' building gradually and are subject to the leadership of the DICs. Although some directors and deputy prosecutors general have also been put in leadership positions of the SCs, they occupy a small part and have mostly become vice-directors, subject to the leadership of the DICs. The transferred prosecutors have not maintained their original organizational structure. Instead, they have been separated and inserted into different departments of the DICs (Wu, 2017). Thus, with the completion of the transfer, the anti-corruption force of the procuratorates in the three experimental locations have been absorbed into the DICs under the name of the SCs. The dual-track anti-corruption system in the three places has transformed into a single anti-corruption agency system with the SC/DIC being the sole anti-corruption agency.

What motivates the establishment of the SC system? Firstly, after the institutional reforms carried out during the campaign, which help remove local interference in anti-corruption procedures and strengthen the capacity of the DICs and the procuratorates, there are still some remaining problems. An essential one is the difficult coordination between the DICs and the prosecutors. Both academic scholars and officials in practice have pointed out that the overlapping jurisdictions of the DICs and the prosecutors in investigating corruption cases resulted in repetitive investigations and conflicts (Zhao, 2013). Furthermore, even when the jurisdiction is clear, such repetitive investigations still exist. Although the DICs have the authority to investigate corruption cases involving party members, such authority is derived from the party and is not recognized in China's legal system. According to China's Criminal Procedure Law, only the prosecutors have the legal authority to investigate public corruption cases (Yi, 2011). Thus, for cases initially investigated by the DICs and later transferred to the prosecutors, the evidence collected by the DICs cannot be admitted directly into the following criminal procedures because they lack legality. The prosecutors must redo the investigation process to recollect the evidence so that they can obtain legality to be used in criminal trials. However, the DICs want to ensure that the following criminal trials of the cases transferred from the DICs proceed based on their investigations and thus do not want a true re-investigation by the prosecutors. Then, because of the dominant role of the DICs in anti-corruption work, they influence the prosecutors and make many of these re-investigations formalistic, with the sole purpose of transforming the evidence collected by the DICs to be formalistically legal and admissible (Yi, 2011). Thus, as the number of cases handled by the DICs in the recent campaign has increased significantly, such repetitive and formalistic investigations has simultaneously increased, largely decreasing the efficiency of anti-corruption efforts.

At the beginning of 2016, President Xi mentioned the urgency of reforming the national anti-corruption system, which was confirmed in the decision passed by the Sixth Plenum of the 18th Session of CPC (President Xi's talk at, 2016). Since then, there

have been several routes being discussed to reform the anti-corruption system (Mingan, 2017). One route is to establish a specialized committee, directly under the National People's Congress (NPC), responsible for anti-corruption coordination and possessing the power to investigate corruption of and hear complaints against the anti-corruption agencies. Another option is to establish a coordinative institution to realize the seamless connection between the DICs and the prosecutors and to ensure that the DICs' decisions are also followed by the prosecutors. A third route is to establish an independent national agency, outside the DICs and the prosecutors, which reports directly to the president and acts as the sole anti-corruption authority according to the anti-corruption law. A fourth is that the National Anti-Corruption Bureau of the Supreme Procuratorate could be upgraded to the national level, independent from the procuracy system, and absorb the anti-corruption duty of the DICs, to be the sole anti-corruption agency in China. Although the decision to establish the SC system upon the foundation of the DICs shows that none of the above routes have been selected, it is clear that the SC system is intended to consolidate the multiple anti-corruption forces in the previous system and to reduce repetitive investigations and combat corruption more effectively, as stated in the decisions (Both decisions explicitly emphasized that the building of the SC system is to consolidate multiple anti-corruption forces and to establish a centralized and highly efficient anti-corruption system, 2016).

Although the establishment of SCs upon the DICs was quite unexpected to both academia and those in the practice field, as there was no discussion of this route before the issuance of the decisions, a close analysis of the institutional reforms and the characteristics of the recent campaign indicates that these have been in preparation for the DICs to absorb the prosecutors' anti-corruption force. To prepare for later reforms of the DICs into the specialized anti-corruption agency, the "three-transform" reform first made the DICs focused on supervision. The centralization of control over the DICs then strengthened their independence from the local governors. The "three-nonfixed" reform of the Circuit Inspection Teams (CITs) enhanced the DICs' anti-corruption capacity, and the routinized use of the offsite investigation and joint investigation systems temporarily resolved the understaffing problem of the DICs without expanding the DICs' size and leaving room for the later consolidation. Moreover, the successful fight against "tiger" corruptions, the opening of the CDIC's website, the prioritization of the DICs in recent anti-corruption efforts, and the promotion of the DICs' anti-corruption work in public media have won broad public support, popularity, and reputation for the DICs, which prepares legitimacy for the DICs to absorb other anti-corruption forces, especially the anti-corruption departments of the procuracy. Furthermore, the newly revised work rules of the DICs for casework has eliminated the quite extralegal investigative measure, i.e. *shuanggui*, and increased the requirements for the DICs' interrogations, search, seizure, and arrest (The Preliminary Work Rule, 2017). Such changes have minimized the differences between the DICs and the prosecutors in investigating corruption cases and reduced conflict during the consolidation of the DICs and the prosecutors. All these measures have paved the way for the upgrade of the DICs from party organs to national SCs and cultivated the DICs to be suitable to become the sole anti-corruption agency in China.

Although there was no anticipation beforehand, the implementation of the Decisions in the three experimental locations have not caused mass complaints or resistance according to the interviews (Interviews of prosecutors and DIC, 2017a). On the whole, the transfer of the most important force of the procuratorates to the SCs has been completed smoothly and quickly in the three experimental locations within four or five months, from December 2016 to April/May 2017 (Interviews of prosecutors and DIC officials conducted by the author from February to, 2017b). Besides the preparations in the campaign mentioned above, there are several other reasons for this positive response. Firstly, although the salaries of the prosecutors are on average higher than the DIC officials, the party center has decided and ensured that the transferring prosecutors will maintain the same salaries and the same position ranks after transferring to the SCs (Interviews of prosecutors transferred to the SCs, 2017). In the future, once they are all SC officials, it would be a problem if the transferred-in prosecutors had higher salaries than the original DIC officials, and thus it is said that these DIC officials' salaries will be increased to resolve this problem (Interviews of DIC officials conducted by the author from February to, 2017).

Second, for front-line prosecutors who are transferred, rather than feeling depressed, they are excited to join the SCs because as a new agency and the sole anti-corruption agency, they feel a responsibility and honor to become part of it and consider it a good opportunity to make some achievements (Interviews of frontline prosecutors transferred to the SCs, 2017). For higher level prosecutors who are transferred, although they show some hesitance to leave the procuratorates where they have worked for a long time, they are still willing to join the SCs and take the transfer as an opportunity. Some of them expressly said that the opportunity to be promoted in the new system is much greater than staying in the procuratorates because the party center has provided many more leadership positions in the SC system than the procuratorates (Interviews of deputy prosecutor generals transferred to the SCs, 2017). Even if not being promoted, staying in the procuratorates, which will become much weaker after losing their most important force, is obviously less attractive than joining the SCs, which will become the sole anti-corruption agency, i.e. the most powerful institution, in China.

Third, the front-line prosecutors who stay in the procuratorates also do not oppose the transfer because for them, the transferred prosecutors are their competitors without whom they have greater opportunity to be promoted and have more room to develop (Interviews of non-transferred frontline prosecutors conducted by the author in, 2017).

Fourth, the high-level prosecutors who stay in the procuratorates have little power to resist the transfer. At both central and provincial levels, the secretaries of the DICs have higher political ranks than the prosecutors general of the equivalent-level procuratorates. For example, the secretary of the CDIC, Wang Qishan, is a standing member of the Political Bureau of the Central Committee of the CPC while the prosecutor general of the Supreme People's Procuratorate (SPP) is a member of the Central Committee of the CPC, two levels lower than Wang. Subject to the Polit Bureau's leadership, the prosecutor general of the SPP emphasized several times that all the prosecutors have to uphold the party center's decision and ensure the smooth completion of the transfer (the talk of the SPP prosecutor general, 2016). Even at lower levels, DIC leaders have half-level

higher political rank than procuratorates' leaders. In early 2017 when the leaders of the Beijing People's Procuratorate (BPP) showed some hesitance and slowness in transferring essential people to the Beijing SC, Secretary Wang Qishan went to the BPP in person and emphasized that the speed of the transfer was too slow and had to accelerate ([Interviews of prosecutors and DIC officials by the author in Beijing in, 2017b](#)). After that, the transfer in Beijing has proceeded without any delay.

Therefore, following the expansion of the DICs and the centralized control over the DICs and the procuratorates during the campaign, the recent campaign has been institutionalized to transform the previous dual-track anti-corruption model to a single anti-corruption agency model in the three experimental locations through the implementation of the decision to establish the SC system. According to the schedule set by the party center, after the experimental implementations, the decision to establish the SC system nationwide will be made after the 19th CPC Plenum, to be held in late 2017 ([the party center's Decision to Establish the SC System in Beijing, 2016](#)). Because the leaders of the SCs have to be appointed by the People's Congress at different levels, it is foreseeable that the establishment of the SC at the central level will be completed in February 2018 at the NPC following the 19th Plenum and the establishment of the SCs at lower levels nationwide will be completed in April or May 2018, depending on what specific date the local People's Congress will be held. After that, the anti-corruption system all over China will be transformed into a single anti-corruption agency system. To understand how the old problems will be tackled within the new system and to explore the underlying motivations leading to the building of the SCs upon the foundation of the DICs, the author followed the existing literature to analyze the role of local party leaders in the local SCs' work and the relationship between the SC/DICs and the prosecutors in local anti-corruption work under the new system. The following section first discusses the plans for establishing the SCs in the three experimental locations generally and then analyzes Beijing's plan in detail.

3. Beijing's plan to establish the Beijing Supervision Commission system (BSC)

To understand how the SC systems have been established in the three experimental locations, the author arranged to interview 24 prosecutors and 15 DIC officials from the three experimental locations ([Interviews of prosecutors, 2017a,b](#)). Because the national plan has not been finalized, the interviews were conducted informally and the questions centered on their attitudes and feelings, rather than sensitive information regarding the structure and work rules of the SC. However the author did content analyses of internal documents and non-confidential meeting records, and collected publicly available materials regarding the structure and work rules of the three plans, including media reports on the establishment of each provincial SC and an online interview of Ms. Zhen Zhen, the vice prosecutor-general of Beijing People's Procuratorate (BPP), the highest procuratorate in Beijing ([Field observations conducted by the author in Beijing's procuratorates and DICs from, 2017](#)). Based on this research, the author concludes that the structures and work rules of the SCs in the three locations are generally the same, except that in Beijing the SC system has two levels, i.e. the Beijing SC and the district-level SCs, while in Zhejiang and Shanxi the SC system has three levels, i.e. the provincial SC, the city-level SCs, and the district-level SCs. In Beijing the DIC system has only two levels, so the building of the SC system corresponds to the structure of the DIC system. Since the procuratorate system in Beijing has three levels, i.e. the Beijing People's Procuratorate, the Branches of the BPP, and the district procuratorates, the anti-corruption force of the first two levels, i.e. the BPP and the Branches of the BPP, were both transferred to the Beijing SC (BSC). The organizations of the SCs are quite similar. Due to resource limitations, it was difficult to closely analyze the SC systems in Zhejiang and Shanxi provinces and thus the following section only discusses Beijing's plan in detail, focusing especially on the role of the local party leaders and the relationship between the SCs and the procuratorates.

According to Wang Qishan's report at the Seventh Plenum of CDIC in January 2017, the transfer of the BPP's anti-corruption force to the BSC had to be completed by the end of March 2017 and the transfer at city and county levels needed to be finished by the end of June 2017 ([Wang Qishan's talk at: ht, 2016](#)). According to interviews, in April the transfer at the provincial level and at lower levels were finished and relevant prosecutors had already been transferred to the corresponding SCs in Beijing. Thus, the structure and the essential rules of the BSCs have been settled and could be used for further analysis. As stated above, after the transfer, there are two levels of SCs in Beijing: the BSC and the district-level SCs. Since the procuratorate system in Beijing has three levels, the anti-corruption force of both the BPP and the Branches of BPP have been transferred to the BSC. Based on the research, the following section argues that in the new system, the dominance of the DICs in anti-corruption work will be further strengthened and the procuratorates' role will shrink substantially; but the internal arbitrariness of the DICs will be decreased. The local party committees' impact in local anti-corruption efforts will be further decreased. The party center relies on both political and legal measures to control the SC, which provides direction to the work of inferior SCs, level by level. Such control means that the party center has strengthened its control over local anti-corruption work, rather than relinquishing control or necessarily promoting the rule of law. It also reveals that the underlying motivation of the party center to establish the SC system upon the foundation of the DICs is probably related to the resulting strengthening of its control. It also explains why the DICs, rather than the prosecutors or other routes that have been discussed above, were selected to become the sole anti-corruption agency, because the DIC system is much better controlled by the current party center than the prosecutors or the independent committees suggested in the other routes.

3.1. The structure of the SC in Beijing

The BSC has established five basic departments: the letter-and-visit reception department ("LV" 信访部门), the daily supervision department ("DS" 日常监督部门), the case investigation department ("CI" 案件审查部门), the case resolution

department (“CR”案件审理部门), and the case supervision and management department (“CSM”案件监督管理部门). The district SCs have similar organization. This structure corresponds to the structure of the Beijing DIC, which was recently reformed according to the Preliminary Work Rules of the Supervision and Implementation of Disciplinary Rules for DICs (“CDIC’s Preliminary Work Rules”) to prepare for the merger of the SCs and the DICs (Article 5, 2017). The DS deals with minor violations of rules or laws that will not trigger disciplinary or legal punishment and works more like a prevention department. The CI, CR, and CSM deal with serious violations of rules or laws that probably will trigger disciplinary or legal punishment. The CI is in charge of investigation. The CR is responsible for making decisions, including determining disciplinary punishment and deciding whether to transfer the case to the procuratorates for prosecution. The CSM divides case information to different departments, supervises the work of the CI and CR, and accepts appeals regarding them. This structure is intended to establish some amount of internal separation within the SCs. It is required that the CI and CR be separated and the CI cannot participate in the CR’s decision-making process (Article 39, 2017).

However, according to the interviews, the legal and disciplinary investigations will not be conducted by separate departments (Interview by the author of two frontline investigators recently transferred from the procuratorate to the SC in Beijing in, 2017). Although the CI has several sub-departments, they are divided according to geographic jurisdiction, rather than by legal versus disciplinary violations. A case could be opened for either disciplinary or legal violations. As long as the relevant geographical area for the violation can be located, the sub-department for that area will be responsible for investigating the case. Once a case is open, the disciplinary and legal violations involved in the case will be investigated together and the CR will also have the same people decide both the disciplinary resolution for the case and whether to transfer it to the procuratorates. Accordingly, the anti-corruption personnel transferred from the procuratorates have been scattered into different sub-departments of the SCs, rather than placed together as a specialized department for legal violation investigations. Such arrangement further indicates that the transfer of the procuratorates’ anti-corruption force into the DICs is not symbolic but substantial and material. Based on the interviews, the transferred leaders of the procuratorates’ anti-corruption departments all admit that they are subject to the leaders of the DICs’ corresponding departments, although they are of the same political ranks (Interview by the author of two department leaders recently transferred from the procuratorate to the SC in Beijing in, 2017). Although for now, the transferred procuratorate officials remain prosecutors and enjoy the same salaries as in the procuratorates, they will soon be united into the DIC track and their current work is already subject to the DICs’ work rules and discipline. Thus, the leadership structure of the DICs will continue into the SCs, which emphasizes political and ideological control and centralizes power in the leaders of the SCs (Li and Deng, 2016d).

On the other side, along with the transfer of the people, the evaluation system of the procuratorates’ anti-corruption work has also been brought into the DICs (Li and Deng, 2016e). The interviewed SC officials confirm that their casework must be evaluated and the evaluation system will be similar to the one in the procuratorates, having similar factors, ranks, and impacts (Interviews by the author, 2017a). Moreover, with the merging of the SCs and DICs, and without internal separation of the legal and disciplinary supervision departments, some previous extralegal investigations employed by the DICs will move into the public eye and become subject to legal requirements, including *shuanggui*. The interviewed DIC officials indicated the enormously increased pressure in doing anti-corruption casework under the new SC system and stated they hoped to learn and receive support from the incoming prosecutors regarding conducting investigations and resolutions consistent with legal requirements (Interviews by the author, 2017a). According to the DIC’s Preliminary Work Rules, *shuanggui* will be substituted by detaining (Liu Zhi留置), a investigative measure enjoyed by policemen to keep interrogated suspects in jail for further interrogation without having to arrest them (The Preliminary Work Rules, 2017). Although China’s current criminal procedure law does not regulate the use of detaining, the Law on Policemen provides a time limit for its use and it is unclear whether such limits will be respected in SCs’ work (Article 9, 2009). The revision of China’s Criminal Procedure Law and China’s Administrative Supervision Law have already been put on the agenda to cover the investigations of the SCs. Furthermore, according to the unpublished preliminary anti-corruption work rules of Beijing procuratorates circulated internally (“Beijing Procuratorates’ Work Rules”), the materials collected by the SCs during their investigations could be recognized as evidence for later legal proceedings, no matter whether the materials were collected in disciplinary or legal violation investigations (The Beijing Procuratorates’ Anticorruption Work Rules have not been finalized and published). Although this effectively reduces the repetitive legal violation investigations when the disciplinary investigations have already achieved useful evidence for legal violations, it also lifts the requirements for disciplinary investigations so that their materials could satisfy later legal standards.

3.2. The cooperation and balance between the SCs and the local procuratorates

Before the transfer, local procuratorates played an essential role in anti-corruption efforts (Li and Deng, 2016f). They shared with the DICs the investigative power in public corruption cases. They investigated the majority of ordinary public corruption cases, while the DICs were responsible for high profile cases. After the transfer, although the prosecutors retain the power to complement the SCs’ investigations, such power is symbolic, as local procuratorates cannot initiate any investigation and have no anti-corruption force to use for investigating. The SC/DICs become the only agency authorized to investigate all kinds of public corruption cases, including private entities which bribe or conspire with public officials. Although the procuratorates could hardly have been considered as supervision against the DICs in anti-corruption work before the transfer, due to the dominant role and political status of the DICs, at least the majority of ordinary cases investigated by the procuratorates had to be conducted according to legal standards and using legally permissive measures. Now all these cases will be

investigated by the SC/DICs, subject to their standards. Depending on how the criminal law and the administrative supervision law will be revised to cover the SCs' investigations, it is highly possible that the standards to initiate and perform investigations and the compulsory criminal measures will be lowered considerably, raising a strong concern regarding the supervision of the SCs.

Theoretically, there are still several mechanisms through which the procuratorates can check upon the SCs. According to the preliminary Beijing Procuratorates' Work Rules, the procuratorates will designate some department to handle cases transferred from the SCs. Upon receiving the case materials from the SC, the designated department could decide whether to return the case to the SC for further investigation or to conduct complementary investigations itself, whether to decline the SC's request to arrest the suspects, whether to decline to prosecute the case, and how to proceed with the prosecution. If it discovers illegal investigative behaviors by the SC, such as torture or leakage of confidential information, the department could decide to exclude relevant evidence and report such behaviors to the CSM of the SC, or to the superior SC through the superior procuratorates if necessary. It is required that the department functions to cooperate with and supervise the work of the SCs.

However, both the interviewed prosecutors and the DIC officials indicated that they did not believe that the procuratorates could constitute a meaningful supervision of the SCs ([Interviews by the author, 2017b](#)). Several interviewed prosecutors who stayed in the procuratorates expressed their concerns about declining the SCs' request to arrest the suspects, given that the SCs are also the DICs, a party organ that leads the party members at the same-level procuratorates ([Interviews by the author, 2017b](#)). Nevertheless, the SCs are in charge of supervising the prosecutors as well. Without other agencies' approval, the SCs can require the same-level prosecutors to sit in the SC buildings for questions and interviews and can decide to initiate cases against the prosecutors from thousands of letter-and-visit reports. From the interviews, the balancing mechanisms have been understood to ensure cooperation rather than supervision ([Interviews by the author, 2017b](#)). Moreover, current materials show that the top-level design of the SC system intends to rely on self-supervision rather than external supervision. Wang Qishan has emphasized at several plenums that the DICs shall supervise themselves well before combating others (打铁还需自身硬). The DICs have established an internal department to investigate cases against DIC officials. Now, with the separation of the CI and CR and the creation of the CSM and internal evaluation system, more internal supervising mechanisms have been set up, further indicating an intention to rely on self-supervision. Besides, the CDIC's Preliminary Work Rules have increased the standards regarding the DICs' investigations, including requiring video and audio recording over the whole investigation process and providing a time limit (no more than 180 days) for the investigation ([Articles 2834, 2017](#)).

3.3. *The leadership of the same-level party committees*

Being afraid that the SCs may become too strong and independent to be controlled, the local party's leadership over the DICs is maintained in the SC system. The CDIC's Preliminary Work Rules state that the DICs answer to both the local party committees and the superior DICs. Correspondingly, the SCs also report to both the local people's congresses and the superior SCs. When initiating questioning or preliminary and formal investigations against lower-level party leaders, the DICs need to have the local party leaders' approval ([Articles, 1822, 2017](#)). However, such leadership cannot be compared with that under the old dual-leadership framework. Continuing the reforms carried out in the first stage of the anti-corruption campaign, the CDIC's Preliminary Work Rules confirm that the superior DICs lead the casework of the inferior DICs and establish a strict reporting system covering the whole process, from the information categorization to the resolution making ([Article 9, 2017](#)). Although the DICs still need the local party leaders' approval to initiate certain investigations, the same information, as well as the local party leaders' decision, has to be submitted to the superior DICs without any delay. Since the superior DICs lead the casework, the superior DICs could overturn the local party's declination and instruct the inferior DICs to continue the work. Moreover, the Rules require the DICs investigate lower-level party committees, organs, and members (下管一或两级) and submit to the superior DICs any information regarding party leaders and members at the same level ([Articles 613, 2017](#)). By increasing the differences in the levels of the DICs' jurisdiction, it is more difficult for suspects to fall under the protective network of the local party committees. Furthermore, with the setup of the internal evaluation system, together with previous reforms in the campaign ([Li and Deng, 2016g](#)), the superior DICs largely influence the nomination, evaluation, and promotion of the inferior DIC leaders and vice leaders.

That said, the funding and work equipment of the DICs continue to be supported by the local party. When carrying out investigations, the cooperation of other party and governmental organs is still important, which remains subject to the local party's control. Thus, the local party's influence still exists in the new anti-corruption system, but is quite limited and exceeded by the superior DICs.

4. **The party center's leading control**

In contrast to the shrinking role of local party leaders, the party center is strengthening its control over local anti-corruption efforts. By upholding the DICs' leadership structure and the superior DICs' dominant role in the new system, control over local anti-corruption work is first centralized in the SC leaders, then the superior SCs, and level-by-level up to the party center. But the party center does not directly decide the outcome of the investigation or the prosecution of specific ordinary public corruption cases. Instead, the party center outlines the principles for the anti-corruption efforts, and controls the direction, scope, and degree of anti-corruption work. It also retains the power to decide some high-level sensitive public

corruption cases. The author refers to such control as the “leading control” of the party center, which constitutes another example of consultative authoritarianism. Consultative authoritarianism uses the causal role of local officials for furthering civil society in China to argue that operationally autonomous civil society can exist in authoritarian regimes (Teets, 2013). Similarly, here, the party center also plays a causal role in enabling the substantive but controlled participation by both inferior authorities and outsiders in anti-corruption work.

In referring to this as leading control, the author wishes to show how it applies to China's leading party authoritarianism. Party leadership in anti-corruption efforts is legitimate under China's legal framework, as China's constitution upholds the party's leadership in every aspect of the country's governance and functioning. The party center does not participate directly or indirectly in the anti-corruption process. It only leads the process by predetermining anti-corruption directions, principles, and goals. The party center tries to build up such leading control in the new system through several steps: (1) centralizing control over anti-corruption agencies; (2) expanding the DIC system and preparing for the SC system; (3) establishing a single anti-corruption agency and creating balances; (4) having vague and incomplete anti-corruption laws which create room for party control; and (5) providing clear instructions and establishing a party rule system regarding anti-corruption work.

4.1. *Centralizing the control over anti-corruption agencies*

The previously discussed reforms have not only decreased the local party's control over the local prosecutors, but also centralized the control over the local prosecutors within the party center. The elimination of the local party's control does not create true independence for the local prosecutors. Instead, the party center's leading control has taken the place of the previous system of local party control.

For the DICs, the nomination, promotion, and evaluation of DIC leaders is determined, level by level, up to the CDIC which reports to the president. Although the funding and work support of the DICs continue to be provided by the local government, reforms of the budget law will contribute to ensuring a sufficient budget for the DIC's work and decreasing the local government's ability to arbitrarily reduce the DIC's funding.

More importantly, the local DIC does not need the local party leader's approval to initiate a corruption case investigation, but instead needs to report to the superior DIC and is subject to the superior DIC's decision on the case. The local DIC cannot decide the cases entirely on its own. In practice, the local DIC must report to the superior DIC, and in many situations must have the superior DIC's approval, including on such matters as: (1) categorizing the case information; (2) deciding whether to initiate a preliminary or formal investigation; (3) deciding the scope, focus, and degree of the investigation; (4) deciding whether to use a joint investigation; (5) deciding whether to use some strong or special investigative techniques; (6) deciding how to conclude the case; and (7) deciding whether to transfer the case to the prosecutor. Thus, the CDIC effectively controls the work of local DICs, level by level. Recent reforms have successfully transferred control over the local DICs from the local party leader to the superior DIC and then, level by level, up to the CDIC, and thereby to the party center.

For the local prosecutors, the superior prosecutor's control used to be stronger than the superior DIC's control over the local DIC. With recent reforms further emphasizing the decisive power of the superior prosecutors in the nomination and promotion of the local prosecutor's leader, and further strengthening the relationship between the superior and the inferior prosecutors, the local prosecutor is even more strongly controlled than previously by the superior prosecutor – and, level by level, up to the supreme procuratorate leader, who must report to the party center.

4.2. *Expanding the DIC system and preparing for the SC system*

A main problem with the old-time DICs' anti-corruption efforts was that they were indistinguishable from the party committees, aiming to facilitate the party's work generally, rather than specializing in anti-corruption. Thus, the DICs would refrain from fighting corruption when it contradicted other missions, i.e., economic growth, or the overall situation.

Recent reforms under China's new leadership have specialized the DICs' mission from two distinct perspectives. First, the reforms have made anti-corruption the primary focus of the DICs' mission. Second, the reforms have eliminated DIC tasks that are irrelevant to fighting corruption.

All of these changes are represented within the “three-transform” (三转) reform of the DICs promoted by Qishan Wang (Xinhua and Qishan, 2014). By May 18, 2014, all thirty-one provincial DICs' reform plans were approved and twelve had already completed the reforms and started to operate (Xinhua and Qishan, 2014). By June 2015, an average of over 85% of the institutions unrelated to anti-corruption work had been eliminated at all city-level DICs, whose anti-corruption force occupies over 60% of all its internal staff strength, leaving most DIC leaders exclusively responsible for anti-corruption supervision (the news article at, 2017). Thus, with concrete models and clear schedules, the DICs now have a specialized mission to fight corruption and have structurally withdrawn from work unrelated with this mission.

The DICs have been positioned to be the coordinators and leaders in local anti-corruption work. The DICs formally became the coordinators for fighting corruption in 2002 (The Compiles of CPC's Party Constitutions, 2012). The DIC drafts concrete work plans, coordinates the work of different departments, and makes suggestions for case handling to the party secretary. Being the anti-corruption coordinator, the DIC could initiate joint investigation to utilize the prosecutor's anti-corruption force, subject to the superior DIC's approval.

Moreover, as the anti-corruption team leader, the DIC can mobilize larger anti-corruption resources and thus has a stronger ability to investigate corruption cases. Frequently, when the DIC and the procuratorate get information around the

same time, or when the procuratorate, as the first finder, has insufficient resources to investigate the case, the DIC will prevail over the prosecutor to investigate the case first. As the anti-corruption team leader, if the DIC feels unable to conduct the investigation, it could borrow people from different entities and start joint investigations, as the case may require, to help the investigation progress. But the procuratorate has no such coordinative power. Cases requiring such joint coordination will be first investigated by the DIC, even if the procuratorate is the first finder.

Another advantage of prioritizing the DIC is that the information relating to violations of party discipline is easier to collect, while the information involving criminal corruptions is much harder to find. Often such criminal information comes from the investigation of party disciplinary violations.

Until now, all corruption cases concerning provincial-level or higher officials were first investigated by the CDIC and then transferred to the SPP, and all corruption cases of prefecture-level leaders were investigated by the provincial DICs and then transferred to the provincial prosecutors. In these cases, the DIC decides whether to preliminarily or formally investigate, performs the preliminary and formal investigations, and decides whether to transfer the case to the prosecutor, subject to both the superior DIC and the local party secretary's approvals.

In contrast, although reforms of the procuratorate are simultaneously ongoing, such reforms do not increase the prosecutors' relative importance in anti-corruption efforts. Although Wang Qishan has emphasized the seamless connection between the DICs and the prosecutors in investigating corruption cases, and has urged the DICs to transfer cases to the prosecutors as soon as they find that the suspect's behaviors violated the law, such words remain mere words without concrete legal requirements or operative institutions to follow.

Therefore, although district-level procuratorates have even stronger anti-corruption capacity than the DICs, the party center at a national level clearly relies more on the DIC system as it expands the DIC's coverage in anti-corruption work, makes the DICs the coordinator, expands its staff strength and mobilizing power, ensures its fund support, and prioritizes its investigative power in corruption cases. The reliability of the DICs in high-profile cases has earned the DICs nationwide popularity and public confidence regarding the ability of the DICs to combat corruption, which has overshadowed the prosecutors' achievements in lower-level corruption cases and thus makes the DIC's eventual absorption of the prosecutors more easily acceptable to the public. Because the legal requirements regarding the DIC's anti-corruption work are much weaker than the prosecutors, and the control of the party center over the DIC is stronger and more arbitrary than over the prosecutors, the asymmetric reliance upon the DICs in fighting corruption by the party center represents an important measure to realize the party's leading control, i.e. strengthening the agencies that are better controlled by the party center.

4.3. *Establishing the single anti-corruption agency and creating balances*

Building the SC system upon the foundation of the DICs and absorbing the anti-corruption force of the procuratorates into the SC system has two side effects. On the one hand, it strengthens the leading role of the DICs in fighting corruption, making the procuratorates' anti-corruption force subject to the DICs' leadership. It also means that the existing leadership structure of the DICs will be continued into the SC system, representing the political control of the party center in the new anti-corruption system. On the other hand, being established in the constitution, regulated by the criminal laws and criminal procedure laws, and having experienced decades of professional reforms, the anti-corruption force of the procuratorates that will be transferred into the SC system will constitute part of the influence of law in the new system. Building the SCs on top of the DICs instead of the procuratorates indicates that political control is the basis and it will prevail over the legal institutions. But having all of the anti-corruption departments of the procuratorates transferred into the SCs demonstrates that political control is not the sole control, but a leading control with the legal institutions continuing to function in an important way. After the transfer, the arbitrariness of the DICs will be decreased.

According to Beijing's current plan to establish the SC system, political control will be realized through several institutions and rely mainly on internal control. Although the NPCSC's Decision states that the Provincial Supervision Commissions (PSC), will be elected by the provincial people's congress and answer to both the provincial congress and the higher supervision commissions, the local party and government will not provide prior leadership as it used to in the original dual-leadership framework (One, 2016). As the local party control over the DICs has been centralized to the party center through the institutional reforms carried out during the campaign, local SCs will also have weak local party influence as both the personnel and the casework are subject to the superior SCs and the superior SCs will supervise lower-level party organs and agencies. The SCs are not to be established from the ground up outside the existing organizations, but rather to be built upon the structure of the DICs and to use the same people as the DICs. That means that after establishing the SCs, the DICs still exist and operate according to the DICs' current institutions. Thus, it is implicitly clear that the existing leadership institutions in the DICs will be continued in the SCs, as in Beijing's plan. Given the institutionalized reform to prioritize the higher DICs' control in deciding the DICs' leaders and handling corruption cases, the higher SCs' leadership will also prevail over the local party control. Although the dual-leadership framework may continue in the SCs, the local leadership will be almost symbolic as the local leaders cannot overturn any decision in case handling or in nomination of local SCs' leaders made by the higher SCs regarding anti-corruption work.

According to current disclosed materials regarding the design of the SC system, it has been emphasized frequently that the internal self-supervision over the SCs will be relied upon, rather than external supervision or balancing (Article 2, 2017). That said, the SC is under the party center's leadership. It is not independent from the party center. It reports to both the party center and the NPC, though local SCs are largely independent from local parties. However, in an authoritarian polity, when

removing local party control, there is a risk that the SCs may become so strong and independent that they are out of the control of the party center as well. Thus, to substitute the local control, the internal political control has to be strengthened. That is the logic behind the institutional reforms in the DIC system. Inherited from the DICs, in the SC system, first the control over frontline investigators is centralized in the leadership of the local SCs, and then control over local DIC leaders is centralized level by level up to the SC. As in the DICs, the nomination, evaluation, and promotion of SC officials is subject to the leadership of the SC and the leaders of the SCs are decided by the superior SCs. Corruption case investigations are decided by the leaders of the SCs and have to be reported to the superior SCs. With the series of party rules issued regarding the DICs' work and anti-corruption investigation, the bases of these decisions made by the SC leaders and the superior SCs are better regulated than before, including the categorization of corruption information, the initiation of preliminary and formal investigations, party disciplinary decisions, and decisions regarding whether to transfer cases to the procuratorates for prosecution. As these rules are still vague and incomplete, the party center also relies on party disciplinary and ideological control over local SCs, including internal policies and constant interviews and talks with the SC leaders.

4.4. *Having vague and incomplete anti-corruption laws to create room for party control*

The anti-corruption laws and rules in China provide insufficient legal and institutional limits to regulate the local DIC and prosecutorial behavior in anti-corruption cases, and thus create room for the party center to implement its "leading control" and even exercise its discretion within the work of local anti-corruption agencies, consistent with the general legal framework in China.

1. China's anti-corruption criminal law is incomplete and principled in several aspects. First, China does not criminalize accepting or giving illegal gratuity and recognizes only 'property from others' as bribes, clearly excluding some types of benefits comparable to property rights, e.g. opportunities for job promotion, educational opportunities, and sexual services (Zhao, 2013). It remains unclear whether common gifts such as wine and cigarettes or the right to use cars and houses are recognized as bribes. Although with the ninth amendment of China's criminal law property rights are included as a kind of bribe, it still excludes some frequently-seen benefits comparable to property rights, such as sexual services, or the right to use cars and houses. Nonetheless, the definition of public corruption offences remains narrow in China.

Second, China's criminal law has no independent criminal offence for conflict of interest. The holding of conflicting positions or specific acts based on conflicting interests, do not trigger criminal liability unless those behaviors happen to satisfy the legal definition of some other crime. China's rules to prevent conflicts of interest remain in preliminary stages (Gong and Ren, 2013b). The Law on Judicature, the Law on Prosecutors, the Law on Public Officials, the Law on Audit, the Law on Securities, the Law on Administrative Supervision, laws on procedures, and the Regulations on the Punishment of Administrative Officers all have scattered articles addressing withdrawals to prevent conflict of interest (Nie, 2013). However, none of them have established institutions to investigate violations and enforce these rules.

Third, a benefit of over 5000 RMB used to be sufficient to constitute a public corruption criminal offence, e.g., embezzlement or bribery, and a conviction for receiving a benefit of over 100,000 RMB could result in over ten years' imprisonment, life imprisonment, or even the death penalty (China's Criminal Law and art). These two standards can be easily reached. But for allegations of corrupt dealings that exceed 100,000 RMB, there was no further standard to distinguish the degree of seriousness (Zhao et al., at 5). In the ninth amendment of China's Criminal Law (1997), such numbered standards are substituted with 'relatively large amount', 'huge amount', and 'extremely huge amount' (Article 39 and the draft of), but the anti-corruption agencies still have large discretionary room to decide the seriousness of the allegations of corruption as the ninth amendment provides only those three principled standards: 'relatively large amount', 'huge amount' and 'extremely huge amount' (Article 44, 2015). Moreover, the Interpretation on Applying Law in Corruption and Bribery Cases issued by the Supreme People's Court (SPC) and the Supreme People's Procuratorate (SPP) further lifted the standard of the bribe to trigger criminal responsibility from 5000 RMB to 30,000 RMB, making it more difficult to legally punish corrupt officials (Article 1, 2016).

2. There are very few rules governing the categorization of case information. As indicated above, case categorization is essential because it determines whether an investigation will be initiated and, if so, what kind of investigation it will be – which can greatly affect the final outcome of the case. Under the current procedures, file categorization remains controlled by the Party and hidden to outsiders. Although social media helps quickly spread certain information, anti-corruption cases exposed on the Internet comprise only a small portion of all public corruption cases. And in many cases, information must be kept entirely confidential to ensure the success of further investigations.

Standards for file categorization are not fixed in any published rules and can thus easily be changed. Moreover, file categorization can be biased whenever the information contradicts party concerns. This balancing of legal and political interests is not legally based and is done in secret, thus providing a potential source of arbitrariness.

Moreover, before the establishment of the SC system and the 2017 Preliminary Work Rules, no law governs the preliminary investigations that are performed either by the DIC or by the prosecutor. The only rule regarding the DIC's investigation is the Opinion on the Interview with the Suspects of Cases by the DICs and the Supervision Agencies, issued by the CDIC in 2006 (CCDI and Article 3, 2006). The only legal requirement contained there is that more than two investigators must attend the interview (CCDI and Article 3, 2006). Preliminary investigation by a prosecutor is subject to similar rules. Current reforms to strengthen the superior's control over local anti-corruption work cannot rectify the problem of confidential, passive preliminary investigations that might produce an insubstantial response to a public corruption claim.

Furthermore, no concrete standards or rules for dismissing corruption cases have been established, and no reasons need to be provided in the record. The dismissal decisions are neither available to the general public nor challengeable by the whistleblower, and the decisions are made under the name of the entire committee, rather than the Case Leader, which creates a ‘responsibility hole’ similar to that created by the judicial committee of the court, as analyzed by Professor Xin He (He).

In addition, no law or published rules govern the performance of joint investigations or *shuanggui*. However, there are internal informal rules – but they basically only recognize the different roles of each agency, and roughly outline the process. The informal rules are insufficient to prevent the abuse of power during *shuanggui*. Several cases have been exposed on social media in which the interrogated officials died abnormally during *shuanggui* ([An official abnormally died during shuanggui in Wenzhou City and Zhejiang province, 2013](#), Liu, 2013). It remains to see how the use of detaining, which substitutes *Shuanggui*, will be regulated in the future.

3. The scope, degree and focus of the case investigation and the use of information collected during the investigation are subject to no concrete rules or laws. It has been found that corrupt officials were normally punished only for accepting bribes (Li and Deng, 2016g). Several factors may affect the selection of the use of information in investigation, including selective confessions, social stability concerns, and plea bargains (Li and Deng, 2016e). However, these factors are not guided or established by any regulations or internal documents. The investigations are well controlled and isolated from the public. The inclusion or exclusion of information cannot be reviewed or challenged. Selective omission of information remains arbitrary and subject to the party’s leading control.

Thus, case categorization standards, decision standards on preliminary investigation and formal investigation, standards for deciding not to prosecute a case, and rules regarding plea bargains remain absent and unable to provide sufficiently clear limits on the prosecutor’s anti-corruption work and thus leave room for the party’s leading control.

4.5. Providing clear instructions and establishing a party rule system for combating corruption

It is widely recognized that authoritarian governance requires two fundamental features in order to function: control over the inferior officials and clear instructions for them to follow (Chen et al., 2016). The former is represented by the party center’s control over the local prosecutor and the local DIC within the current legal framework. The latter refers to the ways that the party center can deliver its instructions for how the anti-corruption should be carried out. Such instructions can be divided into three categories: legal or quasi-legal rules, party rules, and political instructions.

For the DICs’ work, the CDIC issued Work Rules on Cases of DICs in 1994 to uniformly guide the casework of all DICs regarding Party members ([The Rules on Case Work of CDIs, 1994](#)). Later, the CDIC issued several additional rules interpreting the meaning of certain articles within the Work Rules. The primary interpretive rules are the Rules for Implementation, also from 1994 ([The Implementation Rules, 1994](#)). The Work Rules have been recently revised to be the 2017 Preliminary Work Rules. The Administrative Supervision Law and relevant implementing rules also govern DIC work with regard to non-Party public officials. Regarding the scope of supervised activity, DICs rely on public corruption laws and relevant regulations and Party disciplinary rules ([For detailed and comprehensive, 2006](#)). Together, these rules constitute a rule basis for the DICs’ anti-corruption work.

The legal basis for prosecutors’ work is found in the criminal law, the criminal procedure law, judicial interpretations issued by the supreme court explaining these laws, work rules published by the supreme procuratorate, and several other laws and regulations that concern corruption definitions and anti-corruption procedures.

Additionally, the party center has issued the Provisions on Inner Party Law Making to establish a party rule system, parallel to the law system, to facilitate its delivery of clear instructions for how anti-corruption work should be carried out. A recent series of party provisions issued by the party center – such as the Inner Party Supervision, the Party Circuit Inspection Work, and the Party Discipline Punishment provisions – provide standards for the DICs’ anti-corruption work, making up for much of the deficiencies of the anti-corruption law in China.

Political instructions from the party leaders are also important. These come from political lectures made by the party leadership at various public occasions, policy documents issued by central agencies on behalf of the party center, regulation rules passed by the party center or governmental organs, and supplemental articles published in official media. Lectures can be given in public at the national scale, or in private at internal high-level meetings. Similarly, policy documents can be issued broadly and openly, or confidentially and internally. Through all of these multi-faceted approaches, as well as through the party’s indirect influence over the law-making process, the party center outlines its requirements, emphases, concerns, and attitudes to varying degrees (from clearly determined to relatively uncertain). Such outlines provide political instructions to the local anti-corruption agencies, and help to shape the scope, pace, direction, mission, and participant attitudes of the local anti-corruption forces.

5. Summary and challenges of the new system

With the decision to establish the SC system, China’s anti-corruption model has transformed from a dual-track model to a single anti-corruption agency model in the experimental location. In the new system, the SCs, having the same staff as the DICs, are the sole agency authorized to investigate public corruption cases. Building SCs upon the existing DIC structure and absorbing the procuratorates’ anti-corruption force into the DICs strengthens the DICs’ dominant role in fighting corruption

and indicates that the leadership structure and working mechanisms of the DICs will continue into the SC system and thus the political control, rather than the rule of law, is the basis for the party center to regulate anti-corruption work and the SCs. On the other side, merging legal and disciplinary violation investigations subjects the SCs' case investigations to both party and legal requirements, making previously extralegal investigative measures, such as *Shuanggui* (*substituted by Detaining*), falling in the coverage of law, and increasing the standards for the SCs to initiate compulsory measures, perform investigations, and collect evidence.

Moreover, facing the strongest anti-corruption agency in modern China's history, there is a strong concern from both the party center and the general public regarding the supervision of the SCs. Although theoretically, the procuratorates maintain several checks upon the SCs' behaviors, they tend to cooperate rather than supervise, due to the SCs' superior political status as party organs. Although the local party leaders remain part of the SCs' leadership, their influence in the SCs' casework is superseded by the superior SCs. They may still constitute an effective check on the SCs as they continue to provide the funding and work equipment of the SCs, but due to their tendency to collude with the SCs in anti-corruption work, their supervision of the SCs cannot be trusted well. According to current materials and Beijing's plan, the party center seems to rely on internal supervision of the SCs, rather than external supervision by other agencies or outsiders, such as lawyers or NGOs. Several internal supervising mechanisms have been built up, including the objective evaluation system, the separation of case investigations and case resolutions, the establishment of a self-supervision department, and the issuance of party rules regulating the SCs' behaviors. Thus, although political control is the basis of the SC system and represents the party's arbitrariness, the party center also considers it necessary to bring in the legal system and the party rule system as well as several other institutionalized measures to facilitate its control over the SC system. The party center has taken several steps to realize this control and fit it into China's legal framework. However, there is a struggle between the necessity to regulate the SCs and the desire to uphold the leadership and reserve the arbitrariness of the party center in anti-corruption work.

The new anti-corruption model is chosen when China is going through great changes. Its semi-market, semi-state economy is being challenged by the new information economy, while the state-party governance structure is being challenged by new sources of power, including giant internet companies and civilized society. As an authoritarian power, the party center has been struggling with centralizing and decentralizing its control over the local governments vertically, and the different departments horizontally. The expansion of the local governments and departments, during decades of economic reform, has resulted in a fragmented polity and threatened the party center's leadership (Lewis and supra note 1.). Environmental pollution, downward economic pressure, the growing social inequality, the aggravating trend of an aging population, and the arising of new economic types have greatly increased the demand for efficient and good governance. Serious corruptions of the party and government have been deemed to contribute to these challenges, by obstructing the reforms that could respond to them, weakening the party's control and governance capacity, and deteriorating the party leadership's reputation (Manion et al., at).

Facing all of these challenges, combined with political compromises and interest alliances, as well as to uphold the party leadership, the new party center leadership has chosen a vertical and horizontal centralization reform in the anti-corruption area, to make the local party leadership symbolic in the campaign and to consolidate multiple anti-corruption forces. So far, the new anti-corruption campaign has won the new leadership a lot of public support, has strengthened its control over the inferiors, has largely decreased the facially most obvious misbehaviors and corruptions of the government and party, has expanded the DIC system, and has paved the way for later institutional reforms.

However, the new model has challenges. As is well recognized, a main problem of China's previous anti-corruption system was the dominant role of the DICs, which behaved according to political instructions, made selective corruption investigations, and withheld some corrupt officials from being prosecuted. Having absorbed the procuratorates' anti-corruption force, the DICs will play an even more dominant role than before in anti-corruption work. The CDIC's Preliminary Work Rules state the missions of the DICs to be: grasp both party rules and policies when supervising and understand "four types of supervision" so that "very few party members would receive serious disciplinary and legal punishment." (Articles 3 and 4, 2017) Such a statement indicates a politicized mission, strengthening the essence of the DICs as the party's tool and allowing for selective and flexible corruption investigation according to the party center's instructions. Having the same staff as the DICs and lacking separation of legal and disciplinary violation investigations, it is very difficult for the SCs to uphold legal requirements inconsistent with political desires, besides the fact that the law has left room for party instruction. Thus, the function of the SC system still strongly relies upon the party center's willingness to combat corruption. Since political commitment in anti-corruption can hardly last long, especially after having cracked down on political opponents, it is highly possible that the campaign style anti-corruption work will continue in the new system.

Besides the arbitrariness from the party center, the room for manipulation by the SC officials can be huge. Even before the transfer, the procuratorates had several ways to abuse power in corruption investigation and prosecution (Li and Deng, 2016a,b). That was when the procuratorates had only legal authorization to initiate corruption cases. After the transfer, the SCs could open cases for either disciplinary or legal violations. There are also more investigative measures that are available to the SCs than the procuratorates. Having two titles, the SC officials could become DIC officials when the DIC status, i.e. a party organ, would allow their activities, and could change back to SC officials when the SC status is beneficial (This was a concern raised, 2017). It becomes more difficult to define the illegality of the SCs' behaviors, besides the fact that there is neither an effective external agency motivated to supervise the SCs, nor empowered outsiders capable of doing it. The supervision of the SCs is a huge challenge for the new model.

Furthermore, there are also side effects. Being afraid to make mistakes, many government officials begin to act passively. The increased supervision generates many additional burdens on the supervised agencies broadly. Many talented people, even at the senior level, have quit their public positions and joined private companies, especially the new kinds of economic entities. It has become more difficult to recruit new talents into public positions. Moreover, corruptions that are secret are still ongoing, and new forms of corruptions tend to be more secret, because the foundational reforms have been difficult to push forward. Industrial corruptions remain serious and are not the focus of the current anti-corruption campaign.

Going forward, many challenges await. On the one hand, improper consolidation may not produce sufficient efficiency to combat corruption. Insufficient legal rules and inadequate supervision may allow the new anti-corruption system to be captured by the supervised agencies, relying on strong political leadership, and abusing the anti-corruption powers. On the other hand, the institutionalization and enhanced anti-corruption capacity may be too rigid and too unified to accommodate the dynamic phenomenon of modern China. With a loss of talent, the management ability of the party and the government may be further undermined, forcing it to open the gates to let in talented outsiders who have different sources of power and different ideologies. For the original officials who remain, without economic motivations, the ideology of being loyal to the party may be insufficient to ensure their integrity. This will become even more difficult after entering into the second and third stages of the anti-corruption reform campaign.

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