



# The power and the misuse of power by China's local procuratorates in anticorruption<sup>☆</sup>

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## Abstract

Previous literature mainly blames the party commission's leadership and the CDI's leading role in anticorruption for China's procuratorate's ineffective anticorruption work, which only reflects part of the picture. This article has analyzed the interactions between local procuratorates and other entities in anticorruption based upon findings from interviewing prosecutors, CDI officers, and suspects, and conducting content analysis of internal records and files, procedural and substantive rules regarding anticorruption and the work of the procuratorate. It argues that there exist balances between local procuratorates and other entities; and local procuratorates have strong institutional motives from the evaluation system, fundraising needs and legal loopholes to manipulate and transact the power in investigating and prosecuting corruption cases with little supervision, which contributes to the selective prosecution and light sentence in corruption.

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China's corruption and anticorruption are everlasting research topics in China studies. Previous literature tends to focus on how the corruption is defined, produced or caused in China; what consequences are or can be caused by such corruption; and how effective the anticorruption agencies work, especially the China's Committees of Party Discipline Inspection (CDIs).<sup>1</sup> The local procuratorates have been perceived as failing to effectively investigate and prosecute corruption resulting in ineffective anticorruption due to the lack of independence and capability under the dual leadership of local party secretary and superior procuratorate and the dominant role in anticorruption of the CDI.<sup>2</sup> This perception only reflects part of the picture of the local procuratorate's role in China's anticorruption, ignoring its power and internal problems. According to China's Supreme People's Procuratorate's (SPP) 2015 annual work report, all national procuratorates have prosecuted around 40 thousand officials for corruption crimes, including over four thousand senior officials (chuji, 处级以上), who are at levels equal or higher than county/district leaders.<sup>3</sup> Among them only 12 thousand officials were investigated by the CDIs.<sup>4</sup>

This paper intends to discuss the other part of the picture of local procuratorates in China's anticorruption, by analyzing motives and obstructions during their interactions with other agencies in anticorruption. Based on interviews, record reading and content analysis of rules, this article explains how the procuratorates balance with other agencies and misuse their power

<sup>1</sup>See Graham Young, "Control and Style: Discipline Inspection Commissions since the 11th Congress," (1984) *The China Quarterly* 97, pp. 24–52; Hilary K. Josephs, "The Upright and the Low-Down: An Examination of Official Corruption in the United States and the People's Republic of China" (Summer 2000), 27 *Syracuse Journal of International Law and Commerce* (2000), 269; Melanie Manion, *Corruption by Design: Building Clean Government in Mainland China and Hong Kong*, Harvard University Press, November 2004, pp. 120–154; Andrew Wedeman, "Anticorruption Campaigns and the Intensification of Corruption in China," (2005) 14 *Journal of Contemporary China* 42, pp. 93–116; Elizabeth A Quade, "the Logic of Anticorruption Enforcement Campaigns in Contemporary China," (2007) 16 *Journal of Contemporary China* 50, pp. 65–77; Ting Gong, "The Party Discipline Inspection in China: Its evolving trajectory and embedded dilemmas," (2008) 49 *Crime Law Soc Change*, pp. 139–152; Hon S. Chan & Jie Gao, Old wine in new bottles: a county-level case study of anticorruption reform in People's Republic of China, *Crime Law Soc Change*, 2008, Vol. 49, pp. 97–117; Kilko Ko & Cuifen Weng, "Critical Review of Conceptual Definitions of Chinese Corruption: a Formal-Legal Perspective," (2011) 20 *Journal of Contemporary China* 70, June, pp. 359–378; Li Ling, "Performing Bribery in China: Guanxi-Practice, Corruption with a Human Face," (2011) 20 *Journal of Contemporary China* 68, pp. 1–20; Aparna Mathur and Kartikeya Singh, "Foreign Direct Investment, Corruption, and Democracy" (November 3, 2011), 45 *Applied Economics* 8, available at SSRN: <http://ssrn.com/abstract=2212956>; Xin He, "Black Hole of Responsibility: The Adjudication Committee's Role in a Chinese Court," (2012) 46 *Law & Society Review* 4, pp. 681–712; Margaret K. Lewis, "Presuming Innocence, or Corruption, in China" (3 May 2012), 50 *Columbia Journal of Transnational Law* 2(2012); Ting Gong & Jianming Ren, "Hard Rules and Soft Constraints: regulating conflict of interest in China", (2013) 22 *Journal of Contemporary China* 79, pp. 1–17; Xiaoying Zeng & Jiang Wu, "Predicaments and Countermeasures of Network Supervision in the Government of Anti-corruption in China", (2013) 4 *Studies in Sociology of Science* 4, pp. 40–44; Mayling Birney, "Decentralization and Veiled Corruption Under China's 'Rule of Mandates'" (1 March 2013), *World Development*, Forthcoming, available at SSRN: <http://ssrn.com/abstract=2279059>; Fu Hualing, "Stability and Anticorruption Initiatives: Is There a Chinese Model?" (12 July 2013), University of Hong Kong Faculty of Law Research Paper, available at SSRN: <http://ssrn.com/abstract=2293025>; Jiangnan Zhu and Yiping Wu, "Who Pays More 'Tributes' to the Government? Sectoral Corruption of China's Private Enterprises", (2014) 61 *Crime, Law and Social Change* 3, pp. 309–333; Xuezhi Guo, "Controlling Corruption in the Party: China's Central Discipline Inspection Commission," *The China Quarterly/Firstview Article/August* 2014, pp. 1–28.

<sup>2</sup>Melanie Manion, *Corruption by Design: Building Clean Government in Mainland China and Hong Kong*, Harvard University Press, November 2004, pp. 120–154.

<sup>3</sup>See the 2015 work report by the SPP, at [http://www.spp.gov.cn/gzbg/201503/t20150324\\_93812.shtml](http://www.spp.gov.cn/gzbg/201503/t20150324_93812.shtml).

<sup>4</sup>See the 2015 work report at the fifth plenum of the Eighteenth Central CDI, at: [http://www.ccdi.gov.cn/xxgk/hyzl/201501/t20150130\\_50785.html](http://www.ccdi.gov.cn/xxgk/hyzl/201501/t20150130_50785.html).

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