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To cite this article: Margaret Hanson & Michael Thompson-Brusstar (2021): Building Socialist Legality: Political Order and Institutional Development in the Soviet and Chinese Procuracies, Europe-Asia Studies, DOI: [10.1080/09668136.2020.1854185](https://doi.org/10.1080/09668136.2020.1854185)

To link to this article: <https://doi.org/10.1080/09668136.2020.1854185>



Published online: 08 Jan 2021.



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Building Socialist Legality: Political Order and Institutional Development in the Soviet and Chinese Procuracies

MARGARET HANSON & MICHAEL THOMPSON-BRUSSTAR

Abstract

Why do some attempts to use legal institutions to exert central state control fail, while others succeed? Through a controlled comparison of the Soviet Union (USSR) and the People's Republic of China (PRC), we analyse the institutionalisation of the procuracy, an agency charged with enforcing central legal directives. We show that institutional design, competition, and political support during critical junctures created a positive feedback for the institutionalisation of the procuracy in the USSR but left it weak in China. These findings contribute to our understanding of institutional development, state-building, and authoritarian legal control.

WHAT EXPLAINS WHY LEGAL INSTITUTIONS TRIUMPH as tools for political control in some authoritarian regimes but fail to do so in others? Huntington characterised both the USSR and China as 'effective' political systems (2006, p. 1), but that compliance with central mandates did not emerge overnight: in the chaotic wake of revolution and civil war, enforcing its laws and mandates was a pressing concern for Communist Party leaders in both countries. Local officials' interests often diverged sharply from those of the central government, and consequently, they resisted implementing orders imposed from above. Thus, though central authorities possessed the power to make decisions, they often lacked the power to enforce them. To better police 'political order', the Soviet Union and China introduced a procuracy (*prokuratura* in Russian, *jiancha yuan* in Chinese) with powers of 'general supervision', that is, a mandate to monitor local officials for compliance with central laws and regulations, at similar points in their histories. In the Soviet Union, the procuracy became a highly institutionalised, integral component of the party's efforts to use law to bring local state officials to heel, a role it continues to play in contemporary Russia (Solomon 1997; Vakhitova 2003; Pomeranz 2019); in China, despite the 'borrowing' of the Soviet institutional template of the procuracy (and advice from Soviet experts), the procuracy failed to develop similarly deep roots. Today its order-enforcing functions have mostly been absorbed by other institutions. What explains these divergent outcomes?

This work was supported by the University of Michigan Rackham Graduate School Research Grant and by the Institute for Humane Studies Fellowship.

We argue that in China, political suspicion towards bureaucracy and friction between top-down (professionalised) and bottom-up (mass campaign) approaches to enforcing legal compliance rendered general supervision obsolete even before its Mao-era abolition. In contrast, in the Soviet Union, workers' and peasants' groups proved ineffective at supervising state officials' response to central mandates comparatively early in the Bolsheviks' rule. That perceived failure, coupled with disagreements among party leaders as to what shape such control should take, informed Lenin's concerted push for a procuracy with vast legal authority answerable only to the party leadership. That design later proved useful to Stalin, who adopted the procuracy as a tool in his push for agricultural collectivisation and as a part of the infamous *troikas* during the purges. Following Stalin's death, the procuracy was recalibrated to focus on its original, Leninist mandate, and it became a powerful tool for top-down control over the vast Soviet bureaucracy.

By comparing the development of the procuracy in the Soviet Union to its development in the People's Republic of China, this essay makes two contributions. First, it identifies crucial structural conditions for the successful use of authoritarian legality to enforce central political control: clear functional hierarchy and the use of 'blueprints', that is, existing models of institutional design. Second, by tracing the evolution of the procuracy across critical junctures in the state-building periods of both regimes, we show that differences in how party leaders adopted and understood these blueprints depended on their experience with alternative institutional approaches and the political context. In addition, this essay demonstrates the fruitfulness of expanding the study of authoritarian legality beyond courts. By focusing on the understudied procuracy, we show how examining legal institutions outside of courts can shed light on authoritarian state-building and institutional development.

Theory and implications

Both China and the Soviet Union emerged from revolution and civil war facing a similar challenge: the need to combat local officials' non-compliance and rampant abuses of power. Both states adopted a procuracy with powers of general supervision in an attempt to get local officials to more closely abide by central mandates. This power refers to supervising the 'exact and full execution of all laws by administrative organs, enterprises, social organisations, officials, and citizens', as well as determining whether local laws comply with existing federal or central legislation and policy; in both regimes those investigations could also be triggered by citizen complaints, meaning that the institution also served an 'ombudsman' function (Smith 1978, p. 3; Wu 2000). Although the Soviet and Chinese procuracies' closest institutional 'relative' in Western legal systems is the office of the prosecutor, the power of general supervision is one way in which these countries extended the authority of the procuracy well beyond criminal cases and, at least on paper, made it an extraordinarily powerful institution for enforcing legality.¹ In the

¹While the words 'general supervision' do not appear in the PRC state constitution, the expansive language of the procuratorial mandate in the constitution and the Organic Law of the People's Republic of China were interpreted as granting the procuracy the power of general supervision by experts of the period (Duan 2018).

Soviet Union, that mandate was fulfilled: the procuracy grew to become a powerful agency with extensive influence over law in form and practice (Smith 1978).

In contrast, despite similar starting conditions, a shared institutional template, and the same mandate, the Chinese procuracy only weakly institutionalised, and never played a key role in centralised political control. Instead, the PRC procuracy ended up being secondary to party organs and mass campaigns in supervising local policymaking and enforcing Mao's will across China (Li 2016).² Thus, while both the Soviet and Chinese procuracies were established with extensive formal authority over legality in their respective states—and the latter adopted the institutional design of the Soviet procuracy, with the help of Soviet advisers (Xie 2008)—the Chinese procuracy never developed the institutional strength of its Soviet counterpart. What explains this, and what implications does it have for our understanding of law and institutional development in new authoritarian regimes?

We argue that these divergent paths can be attributed to three mechanisms: increasing returns, competition, and changing political contexts. First, a subtle but critical divergence in institutional design led to increasing returns in the Soviet case. Increasing returns is the process whereby political processes can become increasingly preferable to their alternatives by generating path dependence (Pierson 2011). An initial difference in its placement in the state's institutional hierarchy made the Soviet procuracy a more attractive tool for projecting central authority than its Chinese counterpart: while the Chinese procuracy was 'dually subordinate' to superior procuratorates and to regional authorities in China, the procuracy enjoyed formal independence from the latter in the USSR. This direct link to party leadership imbued the Soviet procuracy with a heightened authority *vis-à-vis* other state institutions that, in turn, facilitated the central government's increasing reliance on it. As that dependence grew, the procuracy became ever-more entrenched as a key tool for enforcing legality and with it, the party leadership's political control.

Second, competition between the procuracy and other institutions at critical junctures, especially following the successful personalisation of power and the death of the previous leaders, affected the dynamics of institutional choice: continued investment in administrative legality for political control (USSR), or a reversion to bottom-up campaigns for generating compliance (PRC). In short, we find that the initial distinction in design became magnified by differences in sequencing at critical junctures, contributing to institutionalisation in the Soviet case and the lack thereof in China.

Finally, changes in political context contributed to subsequent levels of investment in the procuracy in each case and thus, its institutionalisation. This competition was compounded and complicated by two kinds of changes in the international political context: changes in Sino-Soviet relations and changes in top party leadership. Falleti and Lynch argue that 'causal effects depend on the interaction of specific mechanisms with aspects of the context within which these mechanisms operate' (Falleti & Lynch 2009, p. 1144). We

²This was true in China even before the Cultural Revolution forced almost all legal organs to suspend normal operation.

argue that which of the two supervision approaches attracted increasing returns depended heavily on these contextual changes.

The first contextual change was in the political relationship between the USSR and the PRC, which began to deteriorate after de-Stalinisation. We show that, after the early 1950s, the political capital of the Soviet model of the procuracy waned due to increased friction between the two countries (Walder 2015). This made it a soft target for the ensuing political campaign by associating it with revisionism and ‘rightist’ thinking. Costly and time-consuming investment in studying the Soviet procuracy, obtaining training from Soviet legal experts, and practising legal supervision as specified by law thus became a political liability due to a change in the political context. This undermined the potential for entrenching any independent supervision authority in the PRC.

In contrast, because the Soviet procuracy drew on domestic historical rather than contemporary blueprints, the trajectory of its institutionalisation depended on internal political processes. Specifically, the development of the procuracy hinged on the role of key personalities—namely, Lenin and Stalin. Lenin’s insertion of personal authority and influence at the key critical juncture of the procuracy’s creation decisively shaped its design. In turn, that design proved useful in Stalin’s subsequent centralisation and personalisation of power and, in doing so, helped the institution endure this period of relative de-institutionalisation. Moreover, the death of Stalin in 1953 constituted a critical juncture and external ‘shock’ that led the party leadership to recalibrate goals and ‘rediscover’ Leninist principles from the early 1920s. In particular, the party reduced its reliance on the highly weaponised use of legal institutions for repression and renewed its emphasis on general supervision to ensure local compliance with central directives.³

It is important to note that the procuracy was not the sole means by which either the Soviet or Chinese regimes attempted to develop centralised political control. Other institutions, most notably the internal security apparatus—the People’s Commissariat of Internal Affairs (*Narodnyi komissariat vnutrennikh del*—NKVD) in the USSR and the police (*gong an xitong*) and Ministry of State Security (*guo an xitong*) in China—obviously constituted key components of the party’s ‘toolkit’ for state-building as well. Rather, our focus is on the institutionalisation or the abandonment of one legal institution explicitly introduced to improve control over the state apparatus through ‘legal’ means. Moreover, that institution is one that, in the post-Soviet era, has successfully defended its mandate against reform efforts (Huskey 1997) and continues to be widely used to hold state officials accountable (Pomeranz 2019).

Methodology

Our case selection leverages what comparative historical analysts call a controlled comparison. Slater and Ziblatt (2013) argue that a successful controlled comparison has three crucial components: the selection of cases that capture ‘representative variation’ on

³This is not to argue that repression ceased, but that the party reduced the scope and arbitrariness of the use of legal institutions for repression. With the exception of the KGB and the highest levels of party and central administration, the procuracy enjoyed broad authority to investigate and bring local and ministry officials and policies in line with central mandates.

the dependent variable; the use of mechanisms and variables that can travel to other cases; and the selection of cases that help eliminate alternative explanations. The successful combination of these components allows comparative historical researchers not only to develop internally valid but also (potentially) externally valid inferences.

Comparing Maoist China and the Soviet Union allows us to control for the influences of party system, ideology, revolutionary experience, type and scope of civil conflict, and immediate post-conflict conditions, including similarly profound economic restructuring. The two countries shared a Leninist party-state system that sought to impose socialism on large, predominantly rural populations with overall low levels of education. They also faced manpower shortages, as the number of loyal, well-trained or well-educated cadres was insufficient to staff the state bureaucracy. These challenges were further complicated by their vast territories and post-conflict status. Finally, economic collapse threatened party control over the state in both cases and with it, the development of socialism. Core similarities between the countries give a rich set of factors that can be held constant as explanations for why the procuracy became a powerful force for Soviet legality while its counterpart in China languished.

Most crucially, our cases share a problem with local enforcement of central directives. Even after they had established military control over Russian territory, the Bolsheviks' orders continued to be subject to widespread resistance from regional and local state officials. Moreover, the local soviets initially posed strong resistance to the central government's attempts to curb their autonomy and centralise state control in the party leadership (Rees 1987). Indeed, Lenin sharply decried *mestichnost*, or local influence, as a pressing threat to Soviet efforts to build the new socialist state, referring to it as 'one of the greatest, if not the greatest, opponents of the establishment of law and culture' (Lenin 1922, pp. 197–201). Given the magnitude of political and economic challenges facing the nascent regime at that time, this characterisation is remarkable.

Chinese leaders similarly struggled to bring local officials in compliance with central directives after conflict had subsided. Even as the Chinese Communist Party (CCP) implemented land reform and eliminated local elites, it struggled to keep grassroots cadres engaged in political activism while following party directives without creating local peasant backlash or localised abuse by newly appointed leaders. Notwithstanding the CCP's victory in the civil war, the acquisition of new territory and the extension of the state beyond any previous regime meant that it encountered real resistance to the policies it implemented, including local rebellions (Walder 2015, pp. 50–3). Resistance persisted, albeit unevenly, throughout the Maoist period.

The Soviet Union and the PRC therefore faced similar governance challenges at the same kind of post-conflict juncture: they needed to strengthen the accountability of local agents to the party leadership. The vast size of their territories, the lack of loyal, qualified party cadres to replace existing state officials, and a shared institutional design meant that the procuracy was introduced under similar conditions in both countries.

Institutionalisation: the Soviet procuracy

First created by a 1722 edict the tsarist procuracy expanded and largely replaced the supervisory functions of the fiscal, itself a short-lived attempt to improve central control

over imperial finances that lasted from 1711 until Peter's death in 1725 (Kazantsev 1993, p. 25). The procuracy was given the initial mandate of supervising the Senate; its intent was to protect citizens from officials impinging on their rights and to improve the prosecution of illegal actions (Gredinger 1914, p. 200, cited in Smith 1978, p. 4). Its authority was expanded under Catherine II to include the power of prosecution on behalf of the state and control over prisons. The power of general supervision was added under Paul I, when the procuracy became responsible for overseeing the implementation of law by not only the Senate and ministries but also provincial authorities throughout the Empire (Kazantsev 1997). However, the Soviet procuracy did not constitute a simple continuation of this far-reaching legal authority. Following the Judicial Reform of 1864, the procuracy lost its powers of general supervision and its mandate was severely circumscribed, to include only criminal prosecution and investigation. This remained the *status quo* until the Bolsheviks' seizure of power more than half a century later (Kazantsev 1997). The incarnation of the procuracy in place in the half-century leading up to the revolution therefore bore little resemblance to the version introduced in 1922.

When the Bolsheviks came to power in 1917, they almost immediately dissolved tsarist legal institutions. A decree by the Council of the People's Commissars on 17 November 1917 replaced courts with elected judges,⁴ eliminated the procuracy and court investigators entirely, and charged the local soviets with selecting commissars to fulfil those duties in their stead. Marxist ideals translated into the belief that 'the socialisation of the means of production would eliminate social and economic bases for crime', making legal bodies obsolete; informal conflict-resolution mechanisms would suffice instead (Smith 1978, p. 5). A 1918 resolution of the All-Russian Extraordinary Congress of Workers' and Peasants' Deputies' Councils urged active involvement of the working classes in ensuring the new regime's laws were carefully observed and sought their involvement in bringing to light those officials who failed to do so.⁵ Similarly, Lenin's earlier writings called for individuals' vigilance in observing and enforcing law. In a 1919 letter he exhorted, 'the slightest confusion, the slightest violation of the laws of Soviet power, the slightest carelessness or negligence serve immediately to strengthen the landowners and capitalists, and contribute to their victories' (Lenin 1919, pp. 155–56). He emphasised founding a new 'people's justice' without a need for anything resembling the previous tsarist courts, which had been 'an apparatus of bourgeois exploitation' (Lenin 1918, p. 197). This primarily took the form of a revolutionary tribunal and workers' control councils in factories.

However, this approach proved unable to either prevent or punish widespread illegal actions and abuses of power by state officials, particularly at the local level (Smith 1978). In response, the Bolsheviks imposed a top-down order over the state bureaucracy by charging a successor organisation to workers' control councils, the Commissariat for Workers' and Peasants' Inspection (*Rabkrin*, *Raboche-krest'yanskaya inspektsiya*, also referred to as RKI), with general supervision in 1920. But *Rabkrin's* inability to adequately fulfil that mandate likely contributed to a consensus among Soviet leadership

⁴*Dekret Soveta Narodnykh Komissarov RSFSR ot 24 noyabrya 1917 g.* (SU RSFSR, 1917, No. 4, st. 50).

⁵*O Tochnom Soblyudenii Zakonov. Postanovlenie Vserossiiskogo Chrezvychnogo S'ezda Sovetov Rabochikh i Krest'yanskikh Deputatov ot 8 noyabrya 1918 g.* (SU RSFSR, 1918, 90, st. 908).

that the procuracy should be reintroduced (Zvyagintsev 2012). While the *Rabkrin* and the procuracy are rarely treated conjointly by scholars, the two institutions evolved during the same period of early state-building by Party leadership, and—we argue—in competition with one another at that critical juncture.

This juncture began in the early 1920s, when the party increasingly abandoned its utopian vision of bottom-up control over the state bureaucracy in favour of a more centralised approach. Earlier decrees that sought to enforce laws through worker and peasant participation and incorporation gave way to new edicts designed to strengthen top-down control. One such decree equated ‘Soviet construction throughout the entire territory of the RSFSR [Russian Soviet Federative Socialist Republic]’ with ‘the enforcement of revolutionary legality’.⁶ The party leadership gave *Rabkrin* the mandate to carry out this enforcement and appointed Stalin as its head. *Rabkrin* combined the functions of the former workers’ inspectorates (initially created, bottom-up, at the factory level but overseen by powerful trade unions) with the recently-reformed, imperial-era state auditing agency, known as *Goskon* (*Gosudarstvennyi Kontrol*, State Control). The resulting hybrid agency led efforts to combat bureaucracy and red tape in Soviet institutions, strengthen top-down control through regular audits, monitor the decrees and decisions adopted by Soviet authorities, and check the activities of all organs of state power from the perspective of their results.⁷ In other words, it was responsible for ensuring compliance with central directives—for general supervision. In accordance with this mandate, party leaders gave *Rabkrin* wide latitude in obtaining documents or evidence in pursuit of these goals.

Shortly after its creation, however, Lenin wrote a letter sharply criticising Stalin’s approach to these tasks, pointing out that *Rabkrin*’s main role should consist not so much in ‘catching’ and ‘exposing’ (*lovit’* and *izoblichat’*), as in knowing how ‘to put things right in good time’ (*umet’ popravit’ ... vovremya*) (Perrins 1980, p. 232).⁸ At the same time, Boim (1966, p. 55) describes these efforts as ineffectual: misuse or outright theft of state property continued to increase, and bureaucratic inefficiency and malfeasance remained major problems. Consequently, Lenin chose to abandon *Rabkrin* as a purely state-run entity and merge it with the Party Central Control Commission (*Tsentral’naya Kontrol’naya Komissiya*). Scholars have attributed much of *Rabkrin*’s inability to curb corruption and abuses of power during its existence to the low educational and technical qualifications of its inspectors (Perrins 1980). Confusion over the exact nature of its role and place in the state hierarchy further undermined the institution’s effectiveness; Perrins (1980, p. 231) writes that ‘many local inspectorates had become in effect departments of the local soviets’, a situation that severely undermined their ability to serve any control function for the central state or party leadership. Rees (1987, p. 30) cites an account from a member of the *Rabkrin* collegium who, by 1921, declared that the institution had ‘failed

⁶*Ob Usilenii Deyatel’nosti Mestnykh Organov Yustitsii. Dekret Vserossiiskogo Tsentral’nogo Iсполnitel’nogo Komiteta ot 25 avgusta 1921 g.* (SU RSFSR, 1921, No. 63, st. 456).

⁷*O Raboche-Krest’yanskoi Inspektitsii. Dekret Vserossiiskogo Tsentral’nogo Iсполnitel’nogo Komiteta ot 8 fevralya 1920 g. No 94. Sobranie uzakoneni i rasporyazhenii pravitel’sтва za 1920 g.* (Upravlenie delami Sovnarkoma SSSR M, 1943, str. 123–25).

⁸See also Rees (1987, p. 33).

both as an agency of mass control and rationalisation. It lacked authority, its proposals were ignored or obstructed, and, even in Moscow, its functionaries were unceremoniously kicked out of the institutions they were investigating'. In short, it lacked the ability to impose centralised political order.

As the civil war reached its end in 1922 and non-compliance by local state officials became an ever-more pressing concern, party leaders recognised the need for additional mechanisms of top-down control. The decision to introduce the procuracy clearly reflected growing concern over the regime's inability to control local officials' disregard for new laws. In contrast to Lenin's earlier calls for bottom-up law enforcement, his 1922 letter on the procuracy—coming at the tail-end of the civil war, when a Bolshevik victory was imminent—dramatically referred to the 'sea of illegality' that characterised the Soviet state as a whole, and argued that 'local influence is one of the highest, if not the highest, forces opposing the establishment of law and culture' (Lenin 1922, p. 199). In the words of a late-Soviet introduction to a document collection, at that time 'it was necessary to found a special organ, which acted on behalf of the highest central power, which would carry out the implementation of a single legality throughout the entire territory of the country' (Pavlishchev & Shishkov 1981, p. 3). The creation of the procuracy reflected a major shift in Lenin's approach to legal institutions, from one that emphasised bottom-up (and then hybrid) methods to one focused on top-down enforcement.

Information on the exact circumstances surrounding the decision to reintroduce the procuracy is unfortunately scant. According to Zvyagintsev (2012, p. 22), the XI All-Russian Conference of the Communist Party 'recognised the necessity of adopting and introducing in all spheres of life strict revolutionary law'. Founding an agency that could 'guarantee supervision of the observation of laws' therefore became a 'hot topic' (*ostrui vopros*), and as the Department of Justice 'clearly could not cope with this task', Lenin suggested that the agency could be the procuracy (Zvyagintsev 2012). Lenin drew on the imperial procuracy as a readily available blueprint for an institution that could help in ensuring adherence to law and decrees issued by the central party leadership (Kazantsev 1993, p. 1). This motion apparently attracted little initial disagreement among members of the Politburo, and the task of developing the procuracy fell to a committee of the Collegium of the People's Commissar of Justice (Salmina 2008).

In contrast to the relative ease with which the idea of recreating a procuracy was accepted, discussions about the form it was to take involved substantial controversy. Members of the Collegium disagreed on nearly everything, even its name (Salmina 2008, p. 21). The sharpest point of contention was the procuracy's place in the institutional hierarchy of the state. There were two opposing camps: one argued that the procuracy should become part of the Ministry of Justice, while the other insisted on linking it directly to the central government. In January 1922, the first edition of the journal *Weekly Soviet Justice* (*Ezhenedel'nik sovetskoi yustitsii*) published a plan for its proposed organisational structure; it reflected the former viewpoint.⁹ According to this design, the procurators would be embedded in and chosen by local departments of justice; they would be

⁹K 4-mu Vserossiiskomu s'ezdu deiatelei sovetskoi yustitsii: Otdel yustitsii, prokuratura i prochie gubernskie organy yustitsii', *Ezhenedel'nik sovetskoi yustitsii*, 1 January 1922.

subordinate to both the Central Committee and to the regional and local governments. Lenin disagreed vehemently with this approach, convinced that it would fail to curb regional waywardness. He repudiated calls for the procuracy's 'dual subordination' to both local administrative organs and the Soviet, arguing that, it was 'not only fundamentally wrong, not only hinders the basis of our goal of introducing consistent legality, but it also manifests the interests and prejudices of the local bureaucracy and local influences' (Lenin 1922, p. 201). Lenin felt so strongly that the procuracy would be ineffectual were the proposal to be accepted that he asked that the Politburo consider the design of the procuracy directly, and while ill, dictated the above-quoted letter to Stalin to be read at the 24 May 1922 meeting. His criticism was, as Salmina notes (2008, p. 20), not groundless; if the plan for 'dual subordination' had been approved by the Central Committee, the procurator would have needed to request permission to submit protests about unlawful decisions of the regional executive committee to the very same regional executive committee (which controlled the local branch of the Department of Justice).

Following that hearing by the Politburo, Lenin's proposal was accepted, and the Central Committee created the procuracy by decree in May 1922, subordinate directly (and only) to the Central Committee. The new institution's first listed mandate was that of general supervision, which was defined as 'the function of supervision in the name of the state of the legal activities of all of the organs of power, economic institutions, social and private organisations and individuals by prosecuting the perpetrators and protesting the decisions that violate the law'.¹⁰ Subsequent laws on the procuracy retained general supervision as the first and primary duty of the procuracy, and the structure of the agency remained stable throughout Soviet rule. Its institutional form thus remained fixed following this initial, and contentious, critical juncture. Moreover, the procuracy was, unlike courts, funded directly from the central budget.¹¹ Procurators were also armed and not subject to arrest by other organs of power without the approval of the General Procurator.¹² These stipulations, coupled with the procuracy's direct link to and supervision by the Central Committee of the Communist Party, provided the procuracy with substantial resources and authority from its inception.

Shortly after the creation of the procuracy, in 1923, *Rabkrin* was reorganised, reduced in size, and merged with the Communist Party control organ to form the People's Commissariat of Workers' and Peasants' Inspection (*Narodnyi komissariat Raboche-krest'yanskoi inspeksii*—NKRKI). The new agency was to focus on the scientific study of state administration and, contrary to a controversial proposal by (a now-severely ill) Lenin, 'placed in *de facto* subordination to the Central Committee' (Rees 1987, p. 61). However, it retained its powers of general supervision. A subsequent circular from the People's Commissar of Justice clarifying the interrelationship between the NKRKI and the

¹⁰*Postanovlenie o Prokurorskom Nadzore. Postanovlenie 3i sessii Vserossiiskogo Tsentral'nogo Iсполnitel'nogo Komiteta 9 sozyva ot maya 1922g.* (SU RSFSR, 1922, No. 36, st. 424).

¹¹*Polozhenie o Verkhovnom Sude Soyuza Sovetskikh Sotsialisticheskikh Respublik. Uverzhdeno Postanovleniem Tsentral'nogo Iсполnitel'nogo o Komiteta SSR* (Vestnik CIK, SNK i STO Soyuza SSSR, 1923, No. 10, st. 311).

¹²*O Poryadke Aresta Prokurorov, ikh Pomoshchnikov, Predsedatelei i Chlenov Revolyutsyonnykh Tribunalov i Sovetov Narodnykh Sudei, Narodnykh Sudei i Sledovatelei. Dekret Vserossiiskogo Tsentral'nogo Iсполnitel'nogo Komiteta ot 16 noyabrya 1922 g.* (SU RSFSR, 1922, No. 77, st. 960).

Procuracy and judicial organs suggests that the overlap between the two institutions' powers—specifically, their ability to supervise other state organs—may have been a point of contestation in the wake of *Rabkrin*'s reform. Directed to procurators and members of the judicial branch, it confirms the authority of the NKRRKI inspectors to observe court hearings and receive materials necessary to its investigations; this included the right to conduct investigations of their own regarding the court (and its conduct).¹³ The head of the NKRRKI also urged greater cooperation between the organisation and the procuracy, but 'these demands were successfully resisted by the legal organs' (Rees 1987, p. 93). This apparent contestation subsided as the NKRRKI, under the leadership of Grigory Ordzhonikidze, a close associate of Stalin, was transformed into 'a skeleton planning and operational administration within the government' focused on industrial policymaking (Shearer 1996, p. 77); there is no further mention or clarification of the two agencies' mandates *vis-à-vis* one another.

Archival and primary source information on the procuracy during the mid-1920s to the 1930s is scarce. For example, records in the central archives on the activities of the procuracy from its creation through 1925 are limited to a single 25-page report and offer only a broad overview of its activities.¹⁴ Interestingly, however, this early report reflects Morgan's (1959, p. 148) argument that the party leadership 'revived' the procuracy's role in general supervision due to a renewed emphasis on 'revolutionary legality', or strict observance of law developed by Communist Party elites; the party leadership drew on the procuracy to 'help stamp out various illegalities' at the local level.

Beginning in 1930, law was emphasised as 'a system of rules expressing the will of the state' (Smith 1978, p. 6), and the function of the procuracy was shifted from ensuring legal compliance to enforcing individuals' compliance with forced collectivisation and industrialisation (Morgan 1959). In this changing context, the procuracy's clear top-down, hierarchical structure, direct link to party leadership, and dependence on the centre made it a tool easily adapted to collectivisation efforts. This intensified the repression of peasants who had resorted to violence to contest the forced collectivisation campaign (Zvyagintsev 2012, p. 111).

The procuracy's ability to adapt to this changing focus in state construction marked increasing returns of investment in the agency for the central leadership. By continuing to prove its utility despite a changed policy emphasis, the procuracy entered into a positive feedback loop (Pierson 2000) that helped transform it into an equilibrium institution. This 'loop' was possible because—thanks to a combination of the initial failures of *Rabkrin* and Lenin's insertion of specific preferences in institutional design—the initial impetus to improve central control over local administrations took a specific organisational form ready to suit a markedly different political environment from the post-civil war and the New Economic Policy (NEP) period in which it was introduced. The procuracy's activities in this period became subsumed by the concerted top-down focus on economic centralisation throughout the country. However, its direct link to the Central Committee,

¹³*O Vzaimootnosheniyakh mezhdru Organami RKI i Organami Sovetskoi Yustitsii i Prokuratury. Tsirkular Nardonogo Kommissariata yustitsii ot 12 iyunya 1924 g. No 87 (Ezhenedel'nik sovetskoi yustitsii, 1924, No. 25, s. 594).*

¹⁴Tsentral'nyi Gosudarstvennyi Arkhiv, f. 55, r. 8131, op. No. 1, ed. hp. No 5.

top-down institutional structure, and the fact it was already in existence (thus eliminating ‘startup’ costs associated with creating an entirely new agency) contributed to its continued utility and thus, to further institutionalisation, despite the changing political and economic context.

This overarching process cannot be divorced from the repressiveness of the larger political environment in the Soviet Union during this period: Stalin’s increasing centralisation of the economy, his own personal power in the office of the General Secretary, and purges of the party and state in the late 1930s. The procuracy again proved to be an easily adaptable tool, becoming co-opted as an instrument of repression dressed as legality: a procurator formed one-third of the infamous *troikas* that carried out Stalinist-era show trials (with a member of the NKVD, or internal security forces, and the local communist party secretary comprising the remaining two-thirds). Here, as in later years, the procuracy worked in a complementary capacity to the security forces. In this way, procurators were ‘drawn into the politics of the “Great Terror”, the massive political repression that occurred under Stalin from 1937–1939, [and] which continued with differing levels of cruelty and intensity through 1952’ (Vakhitova 2003, p. 17).

Stalin’s death instigated rapid change in the openly and highly coercive use of law to bolster state power. In addition to reform in Soviet criminal and civil legislation, there was renewed attention by party leadership to the need for a new approach to legality. This in turn sparked ‘a revival of interest in general supervision and the rights of the individual against state administration’ (Smith 1978, p. 7). This shift was reflected in legislation ‘On Procuratorial Supervision in the USSR’ enacted in May 1955, which emphasised strengthening ‘Leninist principles of organisation and activities of the procuracy, defined as the task of procuratorial supervision in all spheres of state and social life’.¹⁵ While, as Frolov (2011) notes, there has been very little dedicated analysis of the development of the procuracy in the immediate postwar years, this renewed emphasis on the procuracy’s mandate for general supervision and upholding a Soviet vision of legality is evident in the types of protests lodged by the procuracy in this period. Procuratorial actions published in the postwar era show that these concentrated on the enactments of local government organs; by far the largest proportion of protests concern labour cases, particularly the hiring and dismissal of workers (Morgan 1966, pp. 104, 115).

The labour cases reflected a renewed attention to the procuracy’s responsibility for citizen complaints. Under Stalin’s rule, such complaints were more frequently used as justification in purges; in the post-Stalinist era, party leadership turned to the procuracy as a mechanism for citizen redress against administrative organs. Article 55 of the aforementioned Statute on the Procuracy obligates procurators to respond to citizen complaints; of all 99,045 complaints received by local procuracies in 1972, 44.4% were ‘satisfactorily resolved’—that is, substantiated and addressed in favour of the complainant; over half of these complaints concerned labour violations (Smith 1978, p. 65). Morgan (1966) finds that this ombudsman function became one of the primary means by which the procuracy learned

¹⁵*Polozhenie o Prokurorskom Nadzore v SSSR. Utverzhdeno Ukazom Prezidiuma Verkhovnogo Soveta SSSR (Vedomosti Verkhovnogo Soveta SSSR, 1955, No. 9, st. 222).*

about regional and local officials' illegal directives, a feature common to authoritarian regimes (Dimitrov 2014). Protests issued by local procuracies in response to citizen complaints were sometimes challenged by local officials, but those appeals—at least in those cases made publicly available—were always upheld by higher-level procurators, and the offending legislation or directive rescinded. By offering an outlet for some aggrieved citizens, the procuracy continued the positive feedback loop for party leadership established during the early years of state formation. By the mid-1960s this institutionalisation was sufficiently well-established that Mironenko wrote, 'there is every reason to say that the *prokuratura* is now the principal instrument of the Party Central Committee for supervising the activities of all organisations, institutions, and enterprises in the USSR' (Mironenko 1964, p. 40).

This institutionalisation proved durable not only throughout the Soviet period, but also in post-Soviet Russia. The procuracy continually used its powers of general supervision to deflect challenges to the scope and strength of its institutional authority, even as the Soviet regime that had created it crumbled. As Smith writes, 'with the collapse of the USSR, ... the major coercive bureaucracies of the former Soviet state were disarmed or destroyed—all except the procuracy' (Smith 1997, p. 348). This was all the more remarkable given the identification of the procuracy and specifically, its powers of general supervision, as 'a key obstacle to the development of Russian courts' (Solomon 1997, p. 5). In sum, through the influence of context and agency at critical junctures combined with a positive feedback loop initiated by crucial features of its design, the Soviet (and subsequently, Russian) procuracy came to exemplify Huntington's (1996, p. 12) criteria for institutionalisation: adaptability, autonomy, complexity, and coherence in an organisation.

Dissipation: the Chinese procuracy

The legacies and uneven state-building efforts of the Republican government under Chiang Kai-shek, Japanese proxy-rule in the northeast of China (1932–1935), institutional variation in CCP liberated areas, and Soviet advice provided a diverse set of institutional models and legacies for early PRC state-building (Mattingly 2017). Despite this variety, early PRC policymakers had settled on the Soviet-inspired procuratorate as the home of legal supervision by 1949.¹⁶ The design and adoption of the procuracy was based on the Soviet experience; however, unlike in the USSR, the Chinese procuracy did not evolve into a powerful weapon for ensuring local compliance with centrally-imposed laws, nor developed deep institutional roots. Instead, the PRC leadership gradually transformed a vision of institutionalised legal monitoring into a vehicle for popular supervision, then later eliminated the institution entirely as the CCP moved campaign mobilisation directly to 'the masses'.

The history of the criminal law aspect of the Chinese procuracy began as the Qing dynasty (1636–1911) undertook governance reforms (Mühlhahn 2009, pp. 41–57), but the

¹⁶See especially 'Zhonggong zhongyang guanyu zhongyang renmin jianchashu si xiang guiding de tongbao' (January 1950), and 'Zhonggong zhongyang guanyu jianli jiancha jigou wenti de zhishi' (September 1950), in *Jiancha Zhidu Cankao Ziliao (Xin Zhongguo Bufen)* (Beijing, Supreme People's Procuratorate Research Office, 1959).

procuracy first gained powers of general supervision in the Communist base areas during the civil war against the Nationalists and the war with Japan (Lin 2001), a feature attributed by one study to the availability of Soviet advising (Ye & Huang 2003, p. 20). It is in these base areas—spread across China but most famously on the border of Hunan and Jiangxi (the Jiangxi Soviet) and later, in Western Shanxi (the Yan'an Liberated Area)—that many of the party's state-building strategies were initially developed (Heilmann & Perry 2011). This meant that the Chinese procuracy that later emerged from the base areas possessed a mandate that, like its Soviet counterpart, bridged criminal prosecution and legal supervision of state and society. However, prior to the civil war's end in 1949, the procuracy's supervisory and criminal justice functions were split between the Chinese equivalent of the *Rabkrin* (Worker Peasant Supervisory Councils, *gong nong jiancha wei*) and procurators. Worker Peasant Supervisory Councils possessed a mandate for supervision but were unconnected to procuracies. Like their Soviet counterpart the *Rabkrin*, these councils relied on political control by worker-peasant correspondents; rather than supervise the implementation of legal mandates, however, they oversaw the implementation of policies and campaigns (Lin 2001, pp. 69–71, 124–37).¹⁷ These organs would eventually be spun by the party centre into the state institution of the Ministry of Supervision (*jiancha bu*), and into the party organisation of Monitoring and Inspection Committees (*jiancha weiyuanhui*) (Li 2016, p. 452). The procurators, who had no supervision mandate until 1949, were organisationally located within the courts during the 1930s and 1940s (Zeng & Zheng 1992, pp. 299–301; Ye & Huang 2003, p. 19). Consequently, the procuracy of this time was an 'unstable, incomplete, and unified' system (Zeng & Zheng 1992, p. 275).

Echoing the disagreement of early Soviet policymakers over the optimal design of the procuracy for strengthening uniform legality and central control, there was extensive debate in the pages of legal journals and state-run newspapers about the appropriate leadership structure of the procuracy in various base areas during the civil war period: on the one hand, central policymakers advocated the 'vertical' supervision structure, where procuratorates would be responsible only to superior procuratorates in a chain up to the centre; others opposed the change in leadership structure (and, in early debates, even the necessity of a procuracy's existence at all), instead advocating for variations of 'dual' subordination that added the oversight of the local party committee or the courts at each level (Zeng & Zheng 1992, p. 279). Soviet legal advisers, part of the nearly 10,000 experts in many fields sent to China after 1953, were almost exclusively in favour of increasing 'vertical' leadership of procuracies. Initially, the procuracy followed this blueprint: a 'vertical' structure of procuracies overseeing other procuracies from centre to locality was set by temporary regulation in 1949 (Ginsburgs & Stahnke 1964). However, this design was quickly eclipsed by new regulations introduced in 1950, which temporarily transformed local branches of the procuracy into extensions of the Public Security Bureau (*gong an bu*), which housed it and shared leadership with it under a new regulation, the 'Circular Concerning Four Regulations of the Central People's Procuracy'

¹⁷'Zhonghua Suwei'ai Gongheguo Gongnong jianchabu de zuzhi taioli' (1931, esp. section 6), reprinted in Min *et al.* (2011).

(Min & Xue 2009, p. 5). In addition, in 1950 the whole procuracy was allotted just 1,000 cadres for a country with more than 2,500 counties (Min & Xue 2009, p. 40). Understaffing and organisational confusion eroded the procuracy's independent establishment in much of the country for the next year.

The procuracy's initial influence was limited by both institutional design and scope. In 1951, vertical supervision was replaced with 'dual' leadership of the procuracy, meaning organisational subordination to superior procuracies and the local party committee, nominally due to insufficient legal capacity to staff and run the procuracy on its own (Min & Xue 2009, p. 45). This marks a critical departure from the Soviet blueprint during the early development of the Chinese procuracy: as noted above, Lenin opposed this structure explicitly arguing that the value of a general supervision power is critically undermined when horizontal authorities supervise a local procuracy.

Throughout this early period, the CCP's resources were spread thinly between competing priorities to mobilise society and bureaucrats and to institutionalise its governance across a broad territory. This meant that campaign-based mobilisation (both of society and of bureaucrats *via* party campaigns) was in tension with attempts to institutionalise the procuracy and other legal institutions as the dominant strategy for achieving policy compliance in the localities. At the heart of this competition were ongoing campaigns to suppress counterrevolutionaries, fight corruption, and to counter 'rightist' thinking. The procuracy (along with the rest of the bureaucracy) played a role in channelling these campaigns, especially in the prosecution of counterrevolutionary 'criminals' and the 'Three Anti' and 'Five Anti' mass campaigns against malpractice, waste, and corruption in 1951, but campaigns were a bottom-up rather than a top-down strategy for the party-state centre to ensure local compliance and did little to empower formal institutions outside of the party. In contrast to the Soviet case, it was this party-led mobilisational technique that attracted 'increasing returns' in China, as it proved to be a more flexible mode of enforcing political compliance than legal supervision during the drastic and sudden changes that characterised the Maoist period.

The difficulties of procuratorial capacity continued during attempts to establish institutionalised legality in the process of 'regularisation' (*zhenggui hua*) from 1951 to 1954. A shortage of trained cadres was compounded by the elimination of holdover bureaucrats from the Nationalist period in the court and policing systems, which increased the workload of procurators. For example, in 1952, of approximately 28,000 cadres associated with the court system, more than 6,000 were leftovers from the previous regime. Only one-third of those cadres remained after efforts to eliminate 'old legal thinking' removed and punished thousands of judicial officials in that year (Min & Xue 2009, pp. 65–6).

Although the work of the procuracy and the work of the Public Security Bureau, China's policing institution, were not separable for most of this period, new procedures for criminal law enforcement were gradually expanded and put into practice.¹⁸ Legal state-building proceeded slowly—by 1953, only 69% of prefectural level jurisdictions and 29% of

¹⁸Anonymous interviewee, The Stanley Lubman Hong Kong Interview Collection (2018, p. 142). On file with authors.

county level jurisdictions had even established a separate procurator's office (Ye & Huang 2003, p. 25), to say nothing of having begun the work of general supervision.

This began to change after 1954, a landmark year that saw the passage of numerous laws and the first PRC Constitution. It also began a period of rapid expansion of capacity for the procuracy, which increasingly shouldered responsibilities previously allocated to the Public Security Bureau and the People's Courts. Despite the relative chaos in the localities at this time (or perhaps because of it), the procuracy was switched back to vertical supervision with the passage of the 1954 Organic Law of the Procuracy. Under this law, the procuracy grew: it consolidated the establishment of grassroots procuratorates, and staffing increased substantially. This also expanded the exercise of general supervision in some jurisdictions (Ginsburgs & Stahnke 1964). For their part, Soviet advisers met the enshrinement of the more independent (vertical) functioning of the Chinese People's Procuracy in the 1954 Organic Law with relief, believing as they did that it was only under the conditions of institutional independence that 'the procuratorate is able to safeguard uniform revolutionary legality' when, in particular, 'even today individual employees of the state apparatus are infected by "localism"' (Ginsburgs & Stahnke 1968, p. 92).

In early 1955, the party centre approved plans for expansion of the procuracy staffing, increasing the allotment to 19,400 (Li 1988, p. 579). It was not before this time that many procuratorates, even at high levels, began exercising general supervision, although the exercise expanded significantly both in supervision of other legal organs and over other bureaucratic organs, at least in coastal areas (Zhang 1998, p. 257). The emphasis on and support for the power of general supervision was evident in party media, where it was discussed as one of the key differentiating characteristics between socialist legality and its degenerate capitalist counterpart (Shao 1955).

At the same time, however, the procuracy came under fire from the political-legal wing of the Communist Party, which argued that the procuracy's mission and strategy were out of touch with the masses (*qunzhong*). Competing modes of supervision, especially 'mass' supervision, were increasingly emphasised by the central leadership instead (Andreas & Dong 2017, p. 210).

To compensate, the procuracy expanded its reliance on 'correspondents' during this time, especially in 1956, evidence of borrowing from other more 'mass-oriented' state organs (Zhang 1985). These correspondents were often party activists who brought information about violations to the procuracy and spread information to the masses about the most recent developments in the legal system. This was intended to help connect the procuratorates to the mass line as well as to aid them in performing general supervision. In early 1956, there were almost 4,000 correspondents employed by the procuracy in Guangxi (Ou 1996, pp. 149–50); there were more than 94,000 across the country by September of that year.¹⁹

In other words, during this period, the procuracy grew in size (bureaucratic allocation), expertise, and importance in the administration of justice and the legal supervision of the state. The procuracy drew increased support after the 8th National Congress of the CCP

¹⁹'Quanguo jiancha tongxunyuan da jiuwan siqian duo ming, tong weifa fanzui fenzi zuo douzheng qi le henda zuoyong', *The People's Daily*, 5 September 1956.

in 1956, which repeatedly emphasised the importance of legal compliance in the state apparatus (Ye & Huang 2003, p. 28). These changes included the expanded practice of general supervision at increasingly lower levels of government in addition to increased independence in the administration and prosecution of cases (Ginsburgs & Stahnke 1968, p. 116). Tensions remained about the procuracy's precise function, however; directives from the Supreme People's Procuracy, including plans for institutional construction and reform, moved rapidly back and forth between emphasising the leadership of party committees in determining if general supervision was necessary, and encouraging its development, especially in supervising the actions of county-level jurisdictions.²⁰

As the rules for supervision oscillated, the political context changed, and central initiatives were increasingly implemented either directly by mass mobilisation in campaigns or by using such campaigns to create compliance in the bureaucracy (Strauss 2006). This was driven partially by Mao's particular brand of Stalinist fundamentalism, which put him at odds with the Soviet model, especially after the secret speech in 1956, in which Khrushchev criticised Stalin to the 20th Congress of the Communist Party of the Soviet Union. Mao's critiques of Soviet models as 'revisionism' of appropriate socialist practice in the late 1950s²¹ made the political credentials of Soviet-trained legal cadres suspect and caused any commitment to institutionalised legality among party elites to evaporate. In this way, Khrushchev's de-Stalinisation compounded the procuracy's legitimacy deficit in China by changing the political context in which the procuracy was viewed by Chinese elites.

Mao's disillusionment and its consequences were exacerbated during China's failed attempt at rectification during the 'Hundred Flowers' movement in 1956 and 1957, in which a thaw allowing for criticism of the party created a torrent of calls for reform. The movement was brutally suppressed and a mass campaign to rectify 'rightist errors' followed, with victims publicly criticised and sent to labour camps. This purge devastated the bureaucracy, intelligentsia, and legal institutions (Walder 2015, ch. 7). As elite and mass politics became increasingly charged, the Supreme People's Procuratorate issued a directive in September of 1957 to localities instructing them to 'hang up the weapon' of general supervision and closing general supervision offices within the procuracy, sometimes after less than a year of full-time functioning (Zhang 1998, p. 259).

By 1958, the tide of mass and elite politics had turned completely against institutionalisation and with it, general supervision: the anti-Rightist campaign, launched in the wake of the reversal after the Hundred Flowers Movement, found a soft target in the procuracy. An article in a 1958 issue of *Political Legal Research* (*Zhengfa yanjiu*), China's leading legal journal, criticised procurators who 'swallow Soviet experience without chewing', in the process neglecting the party, and a connection to mass politics

²⁰See, 'Zuigao renmin jinachayuan dangzu guanyu jiancha yewu gongzuo huiyi qingkuang he jinhou zongzuo yijian xiang zhongyang de baogao' (January 1955), and '1956 nian zhi 1957 nian jiancha gongzuo guihua' (1957), compiled in *Zhongguo Jiancha Zhidu Ziliao Xuanbian* (Beijing, Supreme People's Procuratorate Research Office, 1987).

²¹For example, critiques of the 'legal supervision' and general supervision in 'Jiancha jiguan fanyoupai douzheng dahuo shengli: Liu Huizhi, Wang Lizhong cuangai jianchayuan zhuanzheng zhineng de yinmou fencui', *Guangming Daily*, 20 December 1957; 'Zuigao renmin jianchayuan chedi jiefa youpai fenzi, buxu Li Huizhi Wang Lizhong diandao zhuanzheng de maotou', *People's Daily*, 20 December 1957.

(T'an 1958, quoted in Cohen 1968). At this same time, the party's Monitoring and Inspection Committees, reintroduced in 1955, began to play an increasingly large role in disciplining local cadres and in the implementation of campaigns (Li 2016, p. 452). As part of the Great Leap Forward downsizing and consolidating of the state apparatus, political and legal organs across the country were centralised under one roof and their functional specialisations eroded. The creation of 'Political Legal Bureaus' (*zheng fa bu*) swept the country, with procuracies, public security bureaus, and courts combined into a single organ. In Guizhou, for example, only 12 out of more than four dozen procuracies were left unincorporated by the end of 1958 (Yuan 1996, p. 3). Pressures to make 'great leaps' created movements like the 'one leader replaces three leaders' (*yi zhang dai san zhang*), in which the heads of the procuracy, police, and people's courts were made bureaucratically interchangeable for the purposes of cutting red tape. The purge of 'rightists' went to the top: 22 senior cadres from the Supreme People's Procuratorate (SPP) were denounced as 'rightists' and sent to labour camps, including party committee member Li Huizhi, whose alleged rightist crimes were centred precisely around his advocacy for the supervisory role of the procuracy.

An article by Wang Guiwu, one of Li's colleagues at the SPP, shows how political context and campaign mobilisation turned against legal system elites who advocated for the power of general supervision. In the official newspaper of the Chinese Communist Party's Central Committee, the *People's Daily*, Wang argued that Li's emphasis on the power of general supervision was 'ridiculous' and that to turn the power of general supervision away from egregious violations towards 'routine errors' was actually turning the weapon of socialist legality 'against the people' (Wang 1958). Similarly, a revisionist report from the August 1958 National Procuratorial Work Conference argued that rightist-leaning procurators' previous support for general supervision was the result of an incorrect understanding of the character of the procuracy,²² highlighting the extent to which general supervision was no longer politically tenable. Wang proposed that general supervision was a weapon for use against enemies of the regime, while errors in bureaucratic implementation and deviations in policymaking should be addressed through party campaigns aiming to increase discipline and improve cadres' understanding of rules (Sun 2018). This type of criticism shows the fracture between a 'people's' legality focused on the masses and party process, and a formalistic legality based on bureaucratic expertise and institutionalised checks; this turn marked the end of general supervision to enforce central mandates, and a move toward a more bottom-up approach.

Within the procuracy, attacks like this demonstrated that the weapon of general supervision was more dangerous to those who wielded it than to those who might otherwise fear it. The weak institutionalisation of general supervision across different localities and the increasing use of mass mobilisation campaigns undermined the procuracy even before the Great Leap Forward drastically reduced staffing and ended most remaining supervision work in 1958. The Great Leap Forward's consolidation of government institutions and creation of an inescapable 'campaign' atmosphere accelerated

²² 'Guanyu zhaokai disi quanguo jiancha gongzuo huiyi xiang zhongyang de baogao', reprinted in *Jiancha zhidu cankao ziliao (Xin Zhongguo Bufen)* (Beijing, Supreme People's Procuratorate Research Office, 1980).

what previous party rectification campaigns had already begun. That process continued with the Cultural Revolution, when Mao further emphasised mass-based campaigns to enforce ideological and political ‘control’ (Thornton 2007, pp. 130–34). As a consequence of this trend, procuracies across the country were forced to close; most would not reopen until after Mao’s death. General supervision as practised in the 1950s would not reappear as such in China.

Unlike Stalin’s, Mao’s death had little effect on the viability of legal supervision. The procuracy was eventually reinstated, but its supervisory role was confined solely to the implementation of criminal justice, and even this has remained weakly exercised (Mou 2017). In the domain of government oversight, the procuracy remains overshadowed by the Chinese Communist Party’s Discipline Inspection Commissions in the institutionalised monitoring of local cadre policymaking and performance, despite being formally charged with the investigation and prosecution of illegal conduct by state employees (Ma 2008). In sum, in contrast to its Soviet counterpart and early model, the Chinese procuracy experienced a rocky, up-and-down developmental trajectory rather than steady growth in scope, autonomy, complexity, and coherence. Its authority gradually dissipated as a result.

Conclusions

Notwithstanding popular perceptions that ‘law’ does not matter under authoritarian regimes, we find that, in specific settings, legal institutions can be powerful instruments of ‘infrastructural power’, extending and regularising the government’s reach across territories and into the lives of its citizens (Slater 2003, p. 82). This study sheds important light on the introduction, development, and strengthening or dissipation of legal institutions under authoritarianism: even strong regimes emerging from the trials of revolution and civil war may not successfully develop legal institutions to enforce political order, as the negative case of Maoist China documents. Despite introducing a procuracy explicitly for this purpose, its functions were eventually absorbed by party discipline commissions.

Instead, we find that a political structure favouring ‘high modern’ technocratic management (Scott 1998), successful competition against ‘bottom up’ supervision alternatives, and institutional alignment with rapidly changing political contexts may support the construction of authoritarian legal control. Notwithstanding initial competition from bottom-up institutional alternatives, in the Soviet Union, the procuracy’s direct connection to central authority created increasing returns to ‘investing’ in the procuracy and in general supervision in the Soviet Union. This effect was compounded by opportunities for the top party leadership to use the procuracy as an institution beyond its supervision powers, as it became a weapon of repression during Stalin’s rule.

While certainly involved in state repression, the Chinese procuracy was initially subordinated to local authorities, which stunted the availability of general supervision as a tool for enforcing central directives. Further, a critical juncture caused by de-Stalinisation and the subsequent critique of Mao prevented the accrual of positive feedback that helped strengthen the Soviet procuracy. This largely confirms findings about the friction between a popular, mass-based role for law and a professionalised ‘external’ law in China (Li 1970;

Altehenger 2018). Beyond this confirmation, however, we document the consequences of competition between formalised and informal legal supervision and enrich previous accounts by comparison with the positive case of the Soviet Union, where the procuracy was able to outcompete its popular legal rivals to play a crucial role in governance.

Our work builds the foundation for future work on legality, supervision, and authoritarian durability, both within the former Soviet bloc, where procuratorial institutions remain powerful, and across ‘rule-by-law’ regimes where authoritarian states have invested in legal institutions. The addition of more cases could help elucidate the relationship between successfully institutionalised supervision and decisions to implement political reform. Recent work on the conditions under which regimes democratise ‘from strength’ (Slater & Wong 2013) suggests that centralised and powerful institutions of supervision could potentially make autocrats feel secure enough to grant political concessions in a crisis and thus unintentionally exacerbate it by raising expectations.

Our research also raises questions about connections between different modes of central political control and regime durability. Further use of the fruitful comparison between the USSR and PRC can contribute to still growing literatures on the sources of authoritarian institutional change (Slater 2009), the origins of revolutionary regime stability (Levitsky & Way 2013), and the trade-off between powerful but ‘rigid’ Leninist structures and chaotic but ‘flexible’ policy implementation (Heilmann & Perry 2011).

Finally, recent work has repeatedly demonstrated the value of studying legal dynamics and actors in non-democracies (Helmke 2002; Hilbink 2007; Shen-Bayh 2018). Unfortunately, these approaches remain largely confined to the courts themselves. We study the conditions for successful institutionalised control *via* the procuracy, providing insight into how legal institutions outside the courts matter for political outcomes under authoritarianism. Our focus on general supervision also builds on the argument that a core function of authoritarian institutions is to extend regime power; by showing how the introduction of a legal institution increases infrastructural power in one case but fails in another, we contribute to the ongoing renaissance in the literature on legality’s contested functions under authoritarianism.

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