



BRILL

Supreme Supervisors? Building the People's Procuracy, 1949–1961

Michael Thompson-Brusstar | ORCID: 0000-0002-3029-6944
Ph.D. Candidate, Department of Political Science,
University of Michigan, Ann Arbor, MI, USA
mrthomp@umich.edu

Abstract

This article interrogates the main events in procuratorial development from 1949 to 1961. Its aim is to better understand the procuracy during the Maoist era by reframing debates about its development along a spectrum: from primarily internal debates that challenged the development of the institution to external debates that challenged the role of the institution. These two dimensions also clarify how the procuracy reflected the politics of the time, especially issues of state construction and building legal knowledge, both within the state and among the “people.” The article shows that “internal” debates stemmed from the largely elite-centered and technocratic concerns of internal organization; “external” debates connected, instead, to broader concerns about the socialist legal project and the procuracy’s place in it. Reframing the institution’s history in this way enables us to understand the concepts and issues shaping the procuracy that crossed “period” boundaries and how responses to those challenges changed over time. Internal limitations (due to lack of resources) and external challenges (to develop flexible methods for accomplishing institutional goals while appearing to serve national objectives) are entwined, making the procuracy from 1949 to 1961 a site of tension between law and policy as well as a locus of contestation about the role of law in Maoist China.

Keywords

legal development – legal mobilization – legal supervision – public prosecutor

Introduction

This article explores the contested establishment and workings of the People's Procuratorate in the People's Republic of China (PRC) from 1949 to 1961. Although empirical research on the contemporary procuracy in English has recently blossomed, work on the procuracy's history remains relatively rare, especially in English.¹ The article takes advantage of recently republished historical materials as well as contemporary internal-circulation publications and study materials to describe how the procuracy, an institution framed as completely new at the time, came to embody the deeply contested politics of legality and state construction under Mao Zedong. The often-embattled procuracy offers rich terrain for an inquiry on the social role of law under Mao, conflict over the contested role of Soviet experience in legal construction, the tensions between "regularization" and "campaign" governance in the 1950s and 1960s, and institutional studies of adaptability in the face of elite conflict.

The current historiography of the procuracy focuses scholarly attention in two ways.² First, these works hew closely to a standard periodization: new democracy–socialist construction (1949–1954), "golden era" (1954–1956), leftist excess (1957–1961), brief return to order (1962–1965), and the Cultural Revolution (1966–1976). This periodization forms a useful heuristic for the broad, institution-level stories of procuratorial development under Mao but obscures important continuities across periods and, perhaps more importantly, obscures "how" and "why" as one "period" transitions to another. Second, the current institutional histories of the procuracy follow a standard narrative about its development: a tortuous path of development that emphasizes the "three cancellations" [*san ge quxiao feng* 三个取消风] or the "three rises and falls" [*san qi san luo* 三起三落]. This frame is useful insofar as it reinforces two important points: first, that the development of the procuracy was responsive to the larger political changes during the Maoist era; and, second, the contested nature of the law's relationship to governance in this period. However, it is also important to note that, between its various

1 See, e.g., Li and Deng, 2016; Li and Wang, 2019; Mou, 2017, 2020. In English, for example, some of the most "recent" treatments were published more than forty years ago and were based almost entirely on English-language or Soviet materials (Ginsburgs and Stahnke 1964, 1965, 1968). This comparative neglect fits a more general pattern in social science on the law, in which lawyers, judges, and courts have historically attracted most of the attention, and prosecutors have been understudied (Gordon and Huber 2009).

2 The book-length treatments of the procuracy after the founding of the PRC are, generally, Zeng and Zheng (1992), Zhongguo dangdai congshu bianxiebu (1988), and Sun (2014), with the latest published as part of a series accompanied by a variety of materials, including Wang (2008).

cancellations, the procuracy underwent serious transformations in mandate and substantive work, rather than narrowly escaping elimination and then returning to a single path of development. Furthermore, this development obviously had broader consequences than for those in the procuracy's employ and did more than demonstrate the party-government, center-locality, and regularization-campaign tensions. The core questions over which the procuracy challenged and was challenged were core issues about the role of law under socialism: what is law, who should be bound by it, and when?

This article surveys the development of the procuracy during the Maoist era in a different way: first, it approaches debates about the procuracy along a spectrum: from primarily internal debates that challenged the *development* of the institution to primarily external debates that challenged the *role* of the institution. These two dimensions help clarify how the procuracy reflected different aspects of the politics of the time, which concerned negotiation over the politics of state construction and expansion and the creation of legal knowledge within the state and among “the people.” For the procuracy, “internal” debates stemmed from the largely elite-centered and technocratic concerns of internal organization and getting the institution on its feet; “external” debates connected to the broader concerns that the procuracy represented as part of the socialist legal project, which, as Altehenger (2018) and others have shown, was a debate as much among the masses as it was among elites. Of course, the “internal” and “external” challenges were related. However, this approach helps reframe the development of the procuracy in theoretical terms, rather than in strictly chronological ones, and enables an approach that crosses “period” boundaries and emphasizes changes in the responses to challenges over time.

Additionally, this article adopts a limited temporal scope, focusing on the period 1949–1961. It does so, first, because the development of the procuracy was heterogeneous over time and place, and complete coverage of the Maoist era would be beyond the scope of a single article. Second, students of the Maoist procuracy are confronted with a practical limitation: much of the primary source material for understanding the inner workings of, and debates within, the procuracy in this period of necessity draw on the internal-circulation periodical *People's Procuracy* [*Renmin jiancha* 人民检察], published by the research office of the Supreme People's Procuratorate. This publication and its predecessor, *People's Procuracy Dispatch* [*Renmin jiancha tongxun* 人民检察通讯], are available more-or-less continuously until volume 13 in 1960, when the Supreme People's Procuratorate (SPP), the Public Security Bureau, and the Supreme People's Court were (briefly) merged. Publishing did not restart (and then irregularly) until 1963; the contents also contained significantly less information about procuratorial practices or activities, and

the gaps are difficult to fill with other sources, especially given the ever-present didactic lens of the SPP. As a consequence, this article focuses primarily on cases of procuratorial practice leading up to the Great Leap Forward (1958) and its immediate aftermath. Arguably, this has only a slight impact on the ability of the article to study the transformation of the procuracy through both internal division and external pressure: by late 1960, the principal transformative moments (the Campaign to Suppress Counterrevolutionaries (1955), the anti-Rightist campaign (1957), and the Great Leap Forward) had already taken place; other inflection points (e.g., the “rescue” of the procuracy from elimination in 1961 or its reorganization until the power seizure and military control in 1968) represent less dramatic changes in the organization of the procuracy than they might seem, given the anemic, almost ad hoc state of procuratorial organization after the Great Leap Forward.

Even during its period of increasing organizational legitimacy and bureaucratic strength, the procuracy was consistently characterized by variation. As contentious as its external role would prove, at its outset the procuracy was also internally divided, especially about the proper modes and methods for carrying out its work. “Internal” challenges to the procuracy were therefore connected to the proper “work style” [*gongzuo zuofeng* 工作作风] and internal institutional design [*yewu zhidu* 業務制度]. In practice, this meant (among other things) arguments and reflections over the proper role of the Soviet model, and the accumulation and sharing of Chinese experience. It also meant continuous revision to the “main” project of the procuracy, as political conditions changed at the national level and the frontiers of the possible expanded, from approval of arrests, to supervision over investigations, and even “general supervision,” in which the procuracy supervised the legality of local government decisions and regulations.

The challenges of staffing the procuracy and of local procuratorial independence were somewhere between internal and external concerns: “internal” because in its early stages the procuracy tied itself to the public security apparatus until it could “gain experience,” and “external” because staff were allocated by other authorities, and increasing the allotment for the procuracy, at least initially, meant transfers from other departments or organs. Staffing the institution was further complicated by an insistence on staffing the procuracy only with cadres who had reliable political credentials or, occasionally, young intellectuals—a challenge even when drawing personnel extensively from outside the party. As described below, the lack of prioritization in procuratorial establishment may have saved the procuracy from serious trouble during the Legal Reform movement in 1952. It took more than six years after the PRC’s founding even to establish formal procuracies down to the county level, more than four years later than the original target of full establishment in 1951.

Determinations about the proper relationship between local procuracies and the local people's government also bridged internal and external dimensions. Part of this was due to conflicts between the stipulated role, based on the Soviet model and materials, of the procuracy to maintain "legal unity" across the country, which put it in conflict with adaptations to local conditions. This was especially true because Soviet procurators (at least as represented in Chinese materials) were all directly responsible to the central procuratorate (Hanson and Thompson-Brusstar 2021). The "direct leadership" [*chuízhǐ lǐngdǎo* 垂直領導] of local procuracies by the procuracies at the higher administrative level represented something closer to both the Soviet "standard," as argued vociferously by Vladimir Lenin, a threat to decentralization of authority. This meant the creation of a potentially powerful check on the authority of other powerful institutions, such as the public security apparatus.

Conflicts that shaded fully into external challenges to the role of the procuracy centered on its supervision powers. The most controversial among them was the power referred to as "general supervision," which emphasized the power of the procuracy to investigate and contest deviations by local government organs from central policies and priorities; another supervision power was its ability to decline investigations prompted by the Public Security Bureau (PSB) or challenge rulings of the people's courts. The fact that many of the procuracy's formal powers constituted restrictions on, or erosion of, the formal or informal powers of the PSB was not lost on procurators (see, e.g., Yang 1951, 14). This threat to the PSB dominated the political-legal landscape and earned the procuracy powerful enemies, especially after 1954 (Han and Yu 2011).

The extensive challenges faced by the procuracy meant its operation was almost constantly in crisis. Despite its difficult circumstances, as actors within the procuratorate addressed challenges both to developing its work internally and to consolidating its role externally, they repeatedly (and self-interestedly) articulated a vision of a socialist China in which criminal procedure and administrative oversight played an important role. This article foregrounds those challenges, their origin, and how the procuracy addressed them by remaking itself and its relationships with other organizations.

A Methodological Note

It is no secret that research on the Maoist period, especially archival research, has become increasingly difficult.³ This is reflected in this article in two ways: first, its primary source material is drawn almost exclusively from study

3 See, e.g., the extensive discussion of source material and local variation in Wemheuer (2019), 7–13.

materials, publications, and handbooks intended for a national audience, and, second, local conditions reflected in these publications are selected, tailored, and presented with that audience in mind. Therefore, much is missing from this story about the practices of procurators at the grassroots, including the dramatic heterogeneity that national-level documents claim existed in several areas of procuratorial practice, including in the relationship between the procuracy and party committees and in the relationships with other legal and administrative organs of the Maoist state. My conclusions, therefore, are subject to modification by future research that has access to local case studies or wider archival access.

Constructing the Procuracy from the Top Down

Chronologically, the first challenge that faced the People's Procuracy, after its creation in the People's Government Organic Law of 1950, was turning a paper commitment into "boots on the ground," which involved both an internal discussion about structure and work and support from external forces, to secure the allocation of cadres and persuade local governments to use them. The construction of procuratorial authority was slow because of genuine capacity constraints in the state, political challenges to the procuracy's role, and the "novel" nature of the work, which made it difficult for procurators to hold up concrete achievements and justify further expansion.

Some of the practical and political constraints on establishing the procuracy came from the fact that, under the Nationalist regime and under the Chinese Communist Party (CCP) in various base areas, "investigation" [*jiancha* 检察] work and investigators [*jiancha guan* 检察官] had largely been handled as part of the adjudication system (e.g., the Jiangxi soviet's Adjudication Bureau [Caipan bu 裁判部]). The legal mandates of these proto-procurators, however, were very different from the eventual powers granted to the procuracy after the founding of the PRC, most notably the absence of "general supervision" and other supervision functions over the PSB and court rulings. The post-PRC procuracy adopted some functions from outside the court system, such as the establishment and monitoring of reporting letter boxes [*jianju xiang* 检举箱]. In this sense, the People's Procuratorate was "born" flexible: considerable emphasis on the Soviet experience was paired in 1950s' educational and professional materials with the assertion that this was "completely new" or "new work" [*quanxin, xin gongzuo* 全新, 新工作], even though this was not quite true.

Declaring procuracies “established” and staffing them were related, but somewhat separate problems. Staffing was slow in part because cadres were in high demand. Discussions in contemporary publications and plans suggest that the two main “sources” of procuratorial cadres were, first, elsewhere in the bureaucracy, which was similarly understaffed, or, second, the political-legal training centers created in cooperation with the PSBs, courts, or local universities.

The planning done at the superprovincial Greater Administrative Region (GAR) level [*da xingzhengqu* 大行政区] by the Southwest Administrative Committee [*Xi'nan xingzheng weiyuanhui* 西南行政委员会] (and its previous military-administrative incarnation, the Southwest Military-Political Committee [*Xi'nan junzheng weiyuanhui* 西南军政委员会]), is illustrative of this point. The work plan for the Southwest Branch of the SPP in 1951 emphasized the necessity of training not only transferred cadres but also in finding politically reliable and principled intellectuals for staffing the procuracy (*Zuigao renmin jianchashu xinan fenshu* 1951). One such training group, organized by the Chuanxi provincial procuratorate in August 1951, trained 127 cadres over a four-month period, and they were then dispersed across the various levels of the procuracies in the province; other provinces in the Southwest Greater Administrative Region relied on collaboration with the Southwest People's Revolutionary University and its branch campuses or training groups organized by the Southwest Branch of the SPP (stationed at the GAR) itself, such as the one organized in 1950 and planned for 1951 (*Sichuan difang zhi bianzuan weiyunhui* 1996, 20; Yang 1951, 15). At that time, China had 383 county-level jurisdictions, four prefecture-level jurisdictions [*zhuanqu* 专区], and three provincial-level jurisdictions in the Southwest GAR (*Zhonghua renmin gongheguo xingzheng quhua* (1951) n.d.), meaning that even if these training groups operated year round, it would have taken more than a year to train even one procuracy staffer in each procuracy down to the county level.

The formal establishment of procuratorates was very slow: the more rural and further down the administrative ladder, the slower their establishment. Before they were established, their functions were performed by the local PSB, which often continued to dominate their local procuracies even afterward. This was accomplished through the simple and widespread practice in which local PSB heads would serve simultaneously as the head of the local procuracy. At least initially, this was by design; the directive from the Party center and the newly established SPP in January 1950 directed that, because of the new nature of the work and the shortage of cadres, procuracies were to focus only on criminal cases and could be set up within PSBs, and their leadership could and should be drawn from the leadership of that institution to serve in

“dual roles” [*zhuanzhi* 兼职]. But the extent of the practice seemed to surprise central procurators almost immediately. A directive from the CCP Party center in September 1950 stated that “not all [procuracy leadership cadres] may be dual-appointees; this is equivalent to not establishing anything” (*Zuigao renmin jianchayuan yanjiushi* 1980, 20–21).

Despite this warning, the problem remained for at least several years: in their work plan for the second half of 1951, the Southwest Branch of the SPP described its aim to establish county-level procuracies in approximately a third of the eligible counties, starting with the most important, but acknowledged that “dual appointments” for leadership and the necessity of appointing at least one of the head procurator or deputy head procurator as single-appointment cadres were problematic.

After the abolition of the Great Administrative Regions in 1954, it would be years before the leadership of the two organs were separate, even at the provincial level: for example, it was not until 1955 that the head of the Provincial PSB did not also serve simultaneously as director of the Hubei Provincial Procuracy (*Hubei zhengfa shizhi bianzuan weiyuanhui* 1994, 46). Also in 1955, in Qiqiha’er, only the third head procurator did not also concurrently hold an appointment in the PSB (*Qiqiha’ershi renmin jianchayuan zuzhishi ziliao bianzuan weiyuanhui* 2015, 12, 77–79). It is difficult to determine how long this practice was common, especially in county-level procuracies, but the fact that these larger procuracies were informally led by the PSB as late as 1955 shows that simple periodizations, in which the “golden period” of procuratorial construction and autonomy began in 1954, could be eroded by looking at procuratorial history closer to the ground.

Although it was initially for pragmatic reasons, the subordination of the procuracy to the PSB in this period created a problematic precedent for prosecutorial construction. While the procuracy formally existed outside the literal PSB offices, this was mostly in order to satisfy procedural requirements for collaboration with the PSB. The evolution of this relationship, especially the changes to make the procuracy more autonomous and to enable it to take up powers enumerated in legislation (e.g., investigating crimes and approving or not approving arrests), met with considerable resistance.

The general shortage of cadres eventually translated into the first “wave of cancellation,” during which procuracies as an institutional form barely survived. According to Wang Guiwu 王桂五, the conflict began in the winter of 1951, when “some comrades” expressed doubt about the necessity of the procuracy at the Bureaucratic Staff Allotment Committee meeting, which quickly resulted in pressure to downsize the institution (Wang 2008, 167). Sun (2014, 206) reveals that problems cropped up even earlier, around late 1950, when the establishment of procuracies in Jiangsu began to be canceled,

with the closure of the few that had already been created. The pressure on governments in general was demonstrated by the goal of moving cadres concentrated at the higher administrative levels to the localities and by supplementing personnel-strapped grassroots organs, directing even the few newly established procuracies (including the SPP itself) to be combined with local PSBs (when the head of the procuratorate was also the head of the PSB) or the courts (otherwise) (Su and Han 1993: 473; Zuigao renmin jianchashu 1952; Zuigao renmin zhengfu zhengwuyuan 1951).

When this situation is discussed at all, conventional accounts hold that only intervention at the highest level prevented the hollowing out of the procuracy: Li Liuru 李六如, then deputy grand procurator, wrote to Zhou Enlai, criticizing the decision, and Zheng Beichen 郑北辰, the head of the Guangzhou Procuratorate, wrote directly to Mao, who then invited the SPP's Party committee to comment on the matter. In Wang Guiwu's account, it was at this time that Deputy Premier Dong Biwu 董必武 not only first heard of the staffing committee decision but also heard that many provincial-level procuracies had already been effectively eliminated and also wrote directly to Mao. After receiving the SPP Party committee report and presumably these other letters, Mao apparently decided not to eliminate the procuracy but did slow the process of its establishment (Wang 2008, 421; see also Sun 2014).

Although procuratorial partisans at the apex of power in China were likely crucial in preventing its elimination, this account obscures significant variation across the country. Wang Guiwu notes that the Jiangsu provincial procuratorates remained mostly unaffected during the second wave of cancellation in 1961 (Wang 2008, 148). Furthermore, procuracies at the Greater Administrative Region level, such as Huadong, took advantage of the initiation of the Three Antis campaign to temporarily stop the elimination of procuratorial cadres. The Huadong Greater Administrative Region's 1952 work report describes halting the staffing cuts in order to address negative reactions from procurators creating "chaos" in the ranks, including arguments that "combining work means merging [the procuracy and other organs]" and that the procuracy would "exist in name only" (Zuigao renmin jianchashu huadong fenshu 1952). These complaints and concerns reflected the decentralized powers at that level and the fact that localities may have been an unanticipated source of resistance to the elimination of the procuracy.

Internalizing Campaigns and Playing Politics

The procuracy's general work in the years before and after 1954 was largely shaped by the latest policy campaigns. In 1950, this meant collaboration with

the PSB in the prosecution and elimination of counterrevolutionaries, followed by the Three- and Five-Antis campaigns [san fan, wu fan 三反、五反] against bureaucratism, waste, corruption, and other ills in 1951 and 1952. In each case, the procuracies that existed collaborated closely with the PSB while emphasizing the trips taken to audit case quality and noting the role of the procuracy in improving that quality.

In order to address its difficulties in implementing its most “in-demand” functions of prosecuting routine criminal cases and the timely approval of arrest requests from the PSB (Zuigao renmin jianchayuan yanjiushi 1980, 34), the SPP prioritized obtaining more staff. Despite its argument that it had played a serious role in these campaigns, more staffing was not forthcoming. Even in March 1954, when the Central Political-Legal Committee Party Committee endorsed the expansion of the procuracy, and the party center in turn endorsed this recommendation, the timeline for doing so was again extended, to “within the next few years” or “within the first five-year plan” (Central Committee of the CCP 1954; Zhongyang zhengfa weiyuanhui dangzu 1953). The draft of the Procuratorial Organic Law was only six months away.

The promised staffing did not appear until 1955. As in previous mass movements involving the prosecution of “bad” or “criminal” elements, the advent of the Campaign to Cleanse Hidden Counterrevolutionary Elements [*Su qing ancang fangeming fenzi* 肃清暗藏反革命分子] simultaneously offered opportunities and pitfalls. The available evidence suggests that this campaign context did much of the work in obtaining concessions for SPP leaders: the massive influx of cases gave the SPP the leverage to advance, and have accepted, a proposal to seriously expand the procuracy’s staffing. This was accomplished by treading a careful line between acknowledging faults in previous work and leveraging the backlog and the constitutional moment to its advantage.

The SPP Party committee report emphasized the failures in the procuracy’s current work due to its incapacity to approve sufficient arrests “quickly and legally” but also cautioned that circumventing its mandated role so soon after the passage of the constitution and the Procuratorial Organic Law exposed the government to opportunists and would put the government in a passive position (Central Committee of the CCP 1955). It also assured that by promising to unite with local PSBs and courts during the course of the campaign, these changes would not go too far. These promises were apparently sufficient, as the Central Committee issued an instruction that the procuracy be incorporated into more decision-making at the grassroots, namely into the five-member leading groups at each level that managed the campaign and that Party committees complete the establishment of procuracies quickly.

In the pages of *People's Procuracy* the SPP leadership made the case for expanding the procuracy ahead of schedule and ensured positive coverage of those that did and negative coverage of those that lagged behind (Renmin jiancha 1956f; Zuigao renmin jianchayuan renshi ting tongxun xiaozu 1956). By June 1956, the establishment of procuracies had been “basically completed,” and staffing remained the principal challenge (Zhang 1956, 236). Figure 1 shows the progression in the number of procuratorial staff [*shiyou* 实有 [actual] staff, not bureaucratic allotments, *bianzhi* 编制], according to estimates available, from 1950 to June 1957.

Figure 1 illustrates that the staffing situation in the procuratorial system changed quickly in 1955 but was slow until that point. By the SPP's estimate, the entire procuracy system had 6,963 staff members in January 1955 (Zuigao renmin jianchayuan dangzu 1955). By the end of 1955, that number had more than tripled, to more than 23,000 (Sun 2014, 315). In February 1956, the bureaucratic allocation [*bianzhi* 编制] for the procuracy comprised 39,945 procurators and 3,326 support staff, almost doubling its allocation; the plan included adding 12,000 staff members the following year and completion of the expansion by 1958.

Although these numbers paint an impressive picture of procuratorial construction, their limited availability at the time reveals their political nature: after the anti-Rightist campaign, the number of procuratorial staff becomes nearly impossible to find and verify. As discussed later, the Great Leap Forward

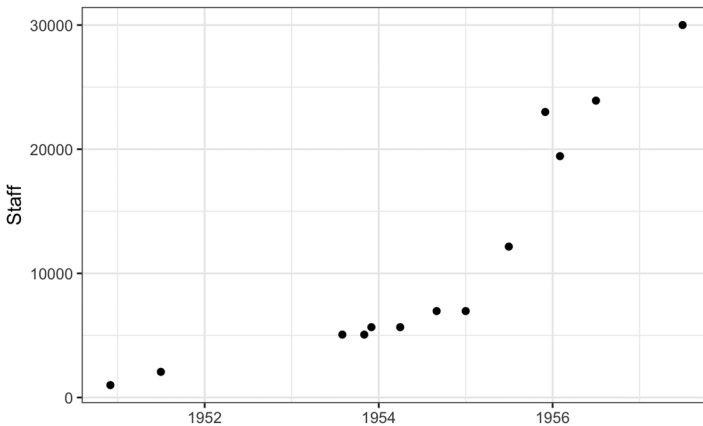


FIGURE 1 Building out the Chinese People's Procuracy: Number of procuratorial staff, by available estimate, 1950–1957

Note: Where day of the month is unavailable, first day of the given month is used. December 1 is used for “end of year” numbers.

SOURCES: SUN (2014): 203, 315; ZUIGAO RENMIN JIANCHAYUAN (1956): 1; ZUIGAO RENMIN JIANCHAYUAN YANJIUSHI (1980): 26, 37, 57, 65–66, 170.

(1958–1959) brought dramatic changes for the procuracy. In 1959, the “second wave” of mergers and cancellations swept the country, such that many procuratorates merged with PSBs and courts to form “political-legal offices” [*zhengfa ban'gongshi* 政法办公室] and “extra” cadres were sent to “take part in production” (Sun 2014, 372–76). The extent to which procuratorial staffing or differentiation across the country recovered, even after “regularization” of procuratorial work in 1962 is unclear.

Handling External Challenges

While what was eventually to become “routine work” was challenged and altered, consequential institutional considerations were being made. In particular, one contentious and consequential debate appears in the 1953 report of the SPP Party committee as “inappropriately emphasizing the direct leadership [*chuishu lingdao* 垂直领导] of the people’s procuracy” (Zuigao renmin jianchayuan yanjiushi 1980, 29). This was one of the consequential considerations at the time; the Soviet procuracy, taken as the model and source of “advanced experience” for the Chinese procuracy, adhered to a strict vertical institutional hierarchy (after Lenin’s original insistence), but Chinese procuracies enjoyed the appearance of vertical leadership only briefly (Hanson and Thompson-Brusstar 2021). As Ginsburgs and Stahnke (1968) note, the supervisory structure of the Chinese procuracy changed several times back and forth apparently to the chagrin of Soviet legal advisers, whose positions reflected Lenin’s original insistence on this structure.

In 1949, local procuracies were to be free of interference from local governments, responsible in their work only to the SPP; this was changed to “dual leadership” [*shuangchong lingdao* 双重领导] by the local government and the higher-level procuracy in the 1951 regulations on local procuracies (Li 1951). The standard explanation offered for this is and was that local procuracies were inexperienced and established slowly and therefore would benefit from local leadership: in arguing this, Wang Guiwu explains that it was expected to be a temporary measure (Wang 2008). Although the decision to return to direct leadership was eventually affirmed as necessary, great emphasis was also placed on the correctness of the 1951 decision to implement dual leadership, noting that the process of establishing procuratorial organs and work required a period of dual leadership, and the previous successes of the procuracy had been possible only because of that leadership (Central Committee of the CCP 1954). Part of the reason for the vehemence with which this interpretation was asserted was great anxiety about the state of Party leadership in the procuracy.

For this reason, the true extent of “direct” leadership after 1954 was circumscribed: instructions from the Party center made it absolutely clear that procuratorial work was to remain under Party leadership, including by local Party committees, stating:

after the constitution has been promulgated, procuratorial organs will be led by “direct” leadership, but this “direct leadership” and “dual leadership” is all referring to leadership relations in the state organizational system, and must absolutely not be misinterpreted such that local Party committees set down their leadership of same level procuracies, or that Party committees and Party members at all levels of the procuracy can ignore the leadership of the Party committee at that level, or that the procuracy Party committees are also implementing direct leadership. Quite the opposite: going forward every level of the Party committees should strengthen their leadership of the procuratorial Party committee, not weaken it.

CENTRAL COMMITTEE OF THE CCP 1954

Furthermore, it left regulation of the relationship between the police, the procuracy, the courts, and the state supervision commissions to localities, which effectively meant that the relationship of “mutual restraint, mutual support” between organizations was up to localities to relax or enforce as they saw fit (Central Committee of the CCP 1954).

This emphasis on absolute Party leadership is especially important to stress because it came in the leadup and immediate aftermath of the passage of the 1954 constitution, which were high points for the role of legality in socialist construction and in mass knowledge of legality. This is evident in the way in which the SPP discussed its goals for future work, rhetorically emphasizing striking a balance between “campaign” style and “routinized” law enforcement. For example, in his report to the Second National Procuratorial Work Meeting in March 1954, Gao Kelin 高克林, the SPP associate head procurator, emphasized that as the procuracy formalized its internal working structures to harmonize with national political priorities, it needed to strike a balance between avoiding the institutionalization of campaign-style procedures, on the one hand, and an “unrealistic” overeagerness to complete the establishment of regular forms and procedures; this sentiment was echoed in almost precisely the same terms in the eventual resolution that came out of that conference.

This emphasis, however, did not last. In the mid- and late 1950s, a sequence of three largely external political challenges collectively undermined both the procuracy’s particular institutional role and the legal system in general

relatively quickly: the anti-Rightist campaign targeted the “independent” and “supervisory” functions of the procuracy, especially the practice of general supervision and its advocates; the Great Leap Forward deeply undermined whatever independent practice of institutional authority had been built up since 1954 with institutional mergers and procedural equivalence; and at the end of 1960, the PSB (under Xie Fuzhi) led another nearly successful campaign that aimed to abolish the procuracy. The Cultural Revolution eventually accomplished what that initiative failed to do—after the campaign to “smash the procuracy, public security, and courts,” most procuracies ceased work—by 1968, most had been subsumed into the military apparatus brought in to restore order, and the procuracy was abolished, with its responsibilities entrusted to the PSB, in the 1975 constitution.

General Supervision and Procuratorial Adaptation

However, the development of the procuracy was not all reactive, nor were procuratorial actors always on their back feet. The history of general supervision [*yiban jiandu* 一般监督], or the authority to supervise the actions and regulations of local bureaucracies to ensure compliance with national law, shows that the procuracy was able, however briefly, to cultivate not only a source of bureaucratic power but also the ways in which it borrowed repertoires from elsewhere to adapt its work to changing conditions.

In 1956, general supervision had only begun to be emphasized as an important component of procuratorial work, but the groundwork for it had started earlier. General supervision began to be seriously piloted as part of general procuratorial work in 1954, after the procuracy was enshrined in both the constitution and the Procuratorial Organic Law. A report on the subject of general supervision, by Wang Lizhong, the head of the general supervision office of the SPP, was also prepared for circulation and comment in August 1954. It emphasized the crucial role that general supervision played in distinguishing socialist procuracies from their capitalist and feudal counterparts elsewhere, summarizing the state of research and experience of general supervision practiced before 1954, and made suggestions about how this work could be advanced after the passage of the Organic Law and state constitution (Wang 1954).

After outlining the differences between general supervision and administrative supervision practiced by other State Council ministries, as well as between general supervision and the other forms of legal supervision over arrests and judicial rulings, Wang summarized the state of previous general supervision work, including pilots in Beijing, Guangzhou, Wuhan, and Lanzhou procuracies

and the provincial procuracies of Xinjiang, Anhui, and Jilin. Contrary to what was eventually alleged during the anti-Rightist campaign, he argued that procuracies had overextended the reach of their supervision by becoming involved in issues that involve no essential legal violation, such as wasting time in factories and companies on industrial accidents or checking grain levels or the status of preserved goods. He directed procuracies that performed general supervision to avoid direct investigation of possible violations themselves when contacting the relevant supervising organ and said that allowing them to investigate would suffice (Wang 1954, 17–18, 23).

In January 1955, the Procuracy Work Bulletin [*Jiancha gongzuo tongxun* 检察工作通讯], published by the general office of the SPP, carried reports from three cities in Liaoning Province (Anshan, Shenyang, and Lüda), which focused on cautious successes in which procuracies had “corrected” and “educated” cadres involved in illegal land seizures. The analysis emphasized that the main function of the procuracy, despite its inability to directly punish cadres who had made policy or taken actions in conflict with the law, was to ensure that mistakes were corrected by continuing to investigate corrective measures and escalating complaints up the administrative ladder when necessary. The report also made it clear that it was not only procurators who were unclear on the exercise of general supervision but also government organs, especially production units such as factories, which expected guidance not only on legal matters after an incident had occurred but also on technical or production matters. It concluded that other government organs needed more education about the “nebulous” [*mohu* 模糊] powers of general supervision before its exercise could proceed smoothly (*Jiancha gongzuo tongxun* 1955).

Four months later, procurators were encouraged to understand the conduct of general supervision further by studying the Soviet experience. The general office of the SPP printed for circulation a translated version of the detailed rules for general supervision used in the Soviet Union, which contained more than eighty provisions on everything from the mechanical procedures for conducting general supervision investigations to the proper organization of general supervision offices, with detailed translation notes (*Zuigao renmin jianchayuan bangongting* 1955). Soviet experience was important both rhetorically and practically; a *Guangming Daily* article in March 1955 that argued for the expansion of general supervision was replete with references to the Soviet experience and even quoted the Soviet procurator general but contained no examples from Chinese experience (Shao 1955).

A year later, in September 1956, general supervision work was sufficiently underway, and apparently sufficiently disorganized, to merit an article in the *People's Procuracy*, about properly standardizing the use of “objection,”

“proposal,” and “suggestion” documents in different situations (Renmin jiancha 1956c). Its final suggestion (that procuracies always send a copy of their documents to higher-level procuracies to “ensure timely direction and support”) suggests that, in attempting to exercise general supervision, local procuracies encountered more problems than simply using the right form—namely, local opposition, requiring intervention from higher levels. Reporting on the expansion of general supervision in Shanxi and Jiangsu Provinces supported the use of general supervision to improve the management of public enterprises and investigate the conditions of spoiled goods, almost certainly what Wang Lizhong would have called a misapplication of general supervision (Guangming Daily 1956). Even given the selective nature and didactic goals of the editors of *People’s Procuracy*, they still often prioritized variations in practice and discussions on evolving legal practice. Based on this variety, we can determine what some of the tools of procurators may have looked like.

On the ground, general supervision by procuracies developed in tandem with the participatory and campaign-based policy implementation that characterized the period. One symptom of this was the hybridization of general supervision work with participatory monitoring “by the masses” in the form of procuratorial “correspondents” [*tongxunyuan* 通讯员], although they were not always discussed in terms of general supervision. Correspondents had been mentioned by Li Liuru (1950) in the 1950 report to the National Judicial Work Meeting but had become increasingly common as a mode of contact with “the masses” in the mobilization leading up to the raft of important legislation in 1954, including the Marriage Law and Election Law (Lan 1953; Zuigao renmin jianchashu 1953).

One former correspondent emphasized the main role played by correspondents as the procuracy’s “eyes and ears,” as well as legal educators and bridges to the masses (Zhang 1985). At the time that the SPP submitted its work plans for 1956 and 1957, it already had 20,000 correspondents across the country, and the SPP plan aimed to increase that number to 100,000–150,000 and, by the end of 1957, to more than 250,000–300,000; in fact, by September 1956, it was more than 94,000 (People’s Daily 1956, 4; Zuigao renmin jianchayuan dangzu 1956). Correspondents offer a window into how the procuracy channeled part of its supervision mandate through the masses, but also highlight that demonstrating a connection to mass mobilization was not enough to save general supervision or the procuracy from criticism after the anti-Rightist campaign and the escalation of Sino-Soviet tensions.

In his report to the National People’s Congress on July 1, 1957, Zhang Dingcheng, the head procurator of the SPP, mentioned general supervision in only one passing sentence, in contrast to the year before, when page after

page touted the contributions of the procuracy in the Campaign to Eradicate Hidden Counterrevolutionaries [*Su fan*, 肃反] (Renmin jiancha 1957d). After the fourth National Procuratorial Work Conference in September 1957, the SPP said that general supervision work “should be temporarily stopped, and can be hung up as a weapon for future use” [*zan bugao yiban jiandu, ke zuo-wei wuqi gua qilai* 暂不搞一般监督，可作为武器挂起来] (Shandong sheng difang shizhi bianzuan weiyuanhui 1998, 259), and general supervision offices in procuracies around the country were closed.

Arrest Approval Work and the Tension between Law and Policy

However evocative, general supervision sheds light only on the administrative role of the procuracy, rather than the role it played in bringing about criminal justice. Thus this section examines the implementation and changes in the procuratorial practice of arrest approval. This important task was the subject of an unprecedented amount of explanatory energy in the late 1956 and 1957 issues of *People's Procuracy*, providing an unusually clear basis for measuring subsequent developments in priorities and practices.

Arrest approval work [*pizhun daibu gongzuo* 批准逮捕工作] was a procedural practice in which the PSB was required to present its investigation results to the local procuracy before arresting a suspected criminal. In light of the challenges in even staffing the procuracy, it is unsurprising that, in the SPP party committee report in 1953, approval of police arrests was still regarded as a necessary experiment to be conducted (Central Committee of the CCP 1954). By the end of 1954, however, the practice had been codified in the PRC Arrest and Detention Rules, which specified that arrests by the PSB had to be approved by the procuracy (Min 2008, 419–21).⁴ As discussed earlier, the inability of procuracies to fulfill this duty in a timely manner played an important role in the SPP's appeal for improved staffing in the procuratorial system.

Despite subsequent increases in the staff of procuracies, arrest approval work was not going smoothly. In February 1956, the SPP ordered a review of all arrests and prosecutions of counterrevolutionary crimes conducted in 1955; some procuracies appear to have extended this review into other areas of their work, and a top-down effort was apparently made to increase the procedural compliance of local procuratorates, shifting them away from campaign-style implementation of their duties (Zhang 1957b).

4 This was likely modeled after the Soviet practice; see Zhongyang zhengfa weiyuanhui (1953).

In August 1956, *People's Procuracy* began a series on arrest approval work spread across five issues, which was accompanied by at least ten other articles between July 1956 and June 1957 concentrating on arrest approval work. Before and after this series, it was customary practice to present “thematic” coverage quarterly, but this is unusually concentrated and unusually didactic, given that it was presented as a series of “question and answer” [*wenda* 问答] pairs delivered by the SPP. It focused on everything from the necessary paperwork and the evidentiary standards to be considered in arrest review, jurisdictional conflicts when suspects cross administrative boundaries, to the proper handling of deaths in custody and the proper composition of case files. The distinction between these procedures and previous practice was sometimes drawn directly: in one article in the series, a discussion about how arrest decisions should be written went as follows:

The forms previously used during the campaign to suppress counterrevolutionaries, which required only a name, were appropriate for their time but inappropriate for the long term. From now on, the content will use not only the name, gender, age, place of native residence, and address, but also state concisely the crimes they are accused of, and the legal basis for the arrest.

RENMIN JIANCHA 1956h

The importance of this discussion of procedure is underscored not only by the uncharacteristically obvious editorial voice but by the accompanying coverage of selected articles. They included an article on mistaken arrest approvals that nearly resulted in erroneous executions and a case that narrowly avoided a mistaken arrest in a rape case in Zhejiang (Renmin jiancha 1956a, 1957b). Other coverage focused on reporting a review of arrests in prior years, including the Baoding region in Hebei in August, Beijing's procuracy in December 1956, and the Hunan provincial procuracy (Renmin jiancha 1956b, 1957a). Rather than focusing on the implementation of the new procedures, they analyzed the shortcomings that produced the lackluster performance in arrest review in 1955 and, then, were particularly revealing about the nature of the actual practice of case review and how practices were being forced to change in much the same way that the comparison of forms showed changes in practice.

Internal reportage written about localities, as well as editorials, identified a host of weaknesses in procuratorial work. First, the reports reveal that evidentiary standards sometimes were low (or nonexistent) in previous arrest approval work. The Hunan report describes that, for example, accusations from struggle sessions [*kuzhu* 苦主] were sometimes the only evidence submitted in

an arrest request, and approvals were granted by the Beijing Procuracy even when the evidence was contradictory or absent. A second source of shortcomings was a “lack of legal knowledge” [*falü shuiping di* 法律水平低]; the Beijing procuracy described going along with PSB accusations without being able to determine whether a crime had even definitively been committed, especially in relation to counterrevolutionary crimes. Problems of a technical (e.g., about evidence review), organizational (e.g., about collaboration with the PSB), and practical (how to determine motive) nature clearly plagued the process, even at the provincial and prefectural levels.

More important for revealing the complexities of criminal law in this period, however, was the importance of policy. Two dimensions of policy appeared repeatedly in *People's Procuracy*, both during this period and afterward: the support of “central work” [*zhongxin gongzuo* 中心工作] and the management of “policy boundaries” [*zhengce jixian* 政策界限]. “Central work” referred to the way in which those working in the procuracy could support the latest important task of the people, which was external but occasionally related to their specialized work. In 1955, this meant the work of suppressing counterrevolutionaries, but in 1959, it meant participating in production in addition to their “desk” work (Renmin jiancha 1959c).

The management of “policy boundaries,” in contrast, referred to the way in which procurators attempted to apply abstract policy content to the distinctions that they experienced in the field. In 1956 and early 1957, this referred mostly to reflections on the correct and incorrect application of a policy modification in criminal justice practice: the leniency policy for those who turned themselves in and confessed [*tanbai cong kuan, kangju cong yan, ligong zhezui, lidagong shou jiang* 坦白从宽, 抗拒从严, 立功折罪, 立大功授奖], as part of the campaign against counterrevolutionaries (although it had also been used earlier).⁵

Policy lines were particularly fraught; concrete guidelines were few, and directional statements, instead, were most of what made its way into the pages of *People's Procuracy*. In one article, the Guangxi Provincial Procuracy described excessive leniency in application of the policy described above when a county-level procuracy freed, without prosecution, a known leader of counterrevolutionary groups because he came forward and confessed to his crimes (Renmin jiancha 1956d). At the same time, the Beijing Procuracy wrote that its errors included overemphasizing the component of the leniency policy saying that it should “be severe to those who resist,” citing a case in which a

5 On its use, see, e.g., Luo (1955). In this specific case, the discussion comes from *Renmin jiancha* (1956g).

leader of the Consistent Way [Yiguandao 一贯道] organization who had confessed his “crimes” and assisted in its reported elimination but who was still punished harshly (Cong jiancha 1956).

The intersection of policy and law created problems in determining whether arrests should be made even when the “legal facts” [*fanzui shishi* 犯罪事实] were crystal clear. This was the case with the Hunan Provincial Procuratorate, which reports the story of a peasant who had slaughtered a healthy cow, and, although it had determined that this clearly constituted a crime, it was unsure about whether to approve an arrest because the *policy* about this type of crime was unclear. After a review of “relevant instructions and documents,” they found that criminal investigations should be reserved for targeting enemy class elements and counterrevolutionaries who slaughter cattle, or those who slaughter cattle repeatedly to resell illegally; for those working peasants who slaughter a cattle because of a craving for meat, generally education was appropriate, instead, and the peasants should not be criminally sanctioned” (Renmin jiancha 1957a).

This placed the importance of identity and motive in determining whether to use education or criminal sanction on full display. Equally important is the risk-avoidant, policy-forward behavior induced by uncertainty about policy lines. Specific instructions were sought for this case and cases like it, and local procuracies made determinations only after instructions were received, even in a case in which the local procuratorate considered the facts of the case clear. It suddenly seems exceptional that the Baoding Branch of the Hebei Provincial Procuracy could accelerate arrest approval rates for a single procurator from four or five per day to six or seven per day (Renmin jiancha 1956b).

The crude nature of changes to practice induced by the emphasis on procedure is suggested by the increased inclusion of articles that document problems in approvals of arrests due to slowness or failure to approve arrests correctly. The increased emphasis on conducting independent investigations when PSB facts were unclear is not surprising. A closer review of the paperwork submitted, and an emphasis generally on quality over quantity caused tension not only with other organs (especially the PSB) but within procuracies, as higher-level procuracies had to step up their review of lower-level work.

People's Procuracy published several accounts in late 1956 and 1957 to this effect, including a small section in which lower-level procuracies called out higher-level procuracies for not responding to approvals for weeks (or even months), titled “Arrest Approval Work Should Be Timely” (Renmin jiancha 1956e). The frequency of this slant on coverage of arrest approval work increased over the course of 1957, with special emphasis on lower-level procuracies that failed to grasp the “policy line” correctly, including by misapplying exceptions

for those who were not habitual criminals [*oufan* 偶犯], who were young, and for attempted crimes [*weisui* 未遂] (Renmin jiancha 1957c). In an article published in June 1957, the Luzhou Branch of the Sichuan Provincial Procuracy reported receiving more complaints from PSBs about procuracies that failed to approve arrests of even repeat offenders, again blaming their “low knowledge of the law and policy.” In an unusually frank addition to the end of its analysis of a lower-level procurator’s shortcomings, it added that procuracies should “educate cadres in the holistic essence of policy, and strictly avoid the see-saw between ‘left’ and right” [*yi quanmian zhengze jingshen jiaoyu ganbu, yange fangzhi ‘zuo’ you yaobai xianxiang* 以全面政策精神教育干部，严格防止“左”右摇摆现象] (Renmin jiancha 1957e).

Arrest approval work, which continued to be a focus of discussion as modes of procuratorial work shifted to emphasize various policy differences (newly interpreted through the framework of determining the principal contradiction in a case), demonstrates the complexity of implementing even clearly specified legal procedures under Mao. Their relationship to policy was not simply that “policy trumped law” but, rather, that policy introduced elements of cases that had to be considered separately from, and in addition to, the “legal facts” of cases. Importantly for procurators, at least as reflected in the pages of the *People’s Procuracy*, policy introduced ambiguity that created rough compliance, which put both the process of criminal justice and the work of procurators on a continuum between “right” and “left,” even before the anti-Rightist movement.

Anti-Rightist Campaign and Rectification

After the Hundred Flowers movement (1957) led to uncomfortable criticism of the CCP, the backlash in the form of the anti-Rightist [*fanyou* 反右] campaign and party rectification [*zhengfeng* 整风] hit the procuracy and the rest of the legal system hard. Rhetorically, critics alleged the procuracy seriously misunderstood the distinction between “the people” and “the enemy” in the use of legal tools and the proper application of methods of “dictatorship” to legal problems. In practice, this was a call for strict and severe application of law in cases determined to be counterrevolutionary in nature or where the criminals were alleged to be counterrevolutionaries, but more flexible and gentle application of legal standards to conflicts internal to “the people.” In particular, the criticisms argued that investigating cadre and departmental policy and legal deviations or malfeasance or, generally, the supervising functions of the procuracy constituted turning the “weapon of the law” against “the people” instead

of “enemies.” In April 1957, the CCP Central Secretariat, in discussing the work report of the SPP from 1956, emphasized four missteps: general supervision, “direct” leadership, “supervision” generally, and “dogmatism” [*jiaotiao zhuyi* 教条主义] (Wang 1999).

Criticism of the procuracy’s supervision powers was especially fierce and especially interesting, given the previous emphasis on its status as the differentiating characteristic between bourgeois procuracies and socialist ones. This did not temper the criticism, however: three issues of *People’s Procuracy* were dedicated to an extensive denunciation of senior procurators by their colleagues on the SPP from November 1957 to January 1958, preceded and followed by articles warning of the dire state of political-legal work and rampant “rightist leaning” in its work.⁶

The anti-Rightist campaign proceeded slowly at first. As the entire legal system came under pressure, Luo Ruiqing, the minister of public security, used the expanded meeting of the Central Legal Committee in September 1957 to heap accusations on the “rightist tendencies” of the procuracy, attacking its focus on illegal conduct by cadres instead of “the enemy,” and further accusing it of ignoring Party leadership and deliberately obstructing the work of the PSB (Wang 1999, 10). By November 1957, the procuratorial system at all levels had ousted 536 “rightists” allegedly guilty of these failures (Zhang 1957a). This number was deemed unsatisfactory at a meeting of the Central Political-Legal Small Group [*Zhongyang zhengfa xiaozu* 中央政法小组] in late 1957, and a special committee, carefully excluding both Zhang Dingcheng, the head of the SPP, and Dong Biwu, the head of the Supreme People’s Court, was created to expand rectification within the political-legal system (Wang 1999, 12). By September 1958, the new committee had “uncovered” more than a thousand additional “rightists” in the procuratorial system (Sun 2014, 358).

The anti-Rightist campaign and Party rectification had several impacts on procuratorial work. First, procuracies ceased all general supervision, including the use of procuratorial correspondents, in part because criticism often took the form of criticizing Soviet influence, with which both practices were associated (Sun 2014, 354). Any form of legal supervision by the procuracy (including “legal supervision” of the courts or the PSB) came so thoroughly under attack that the word “supervision” [*jiandu* 监督] was eliminated from procuratorial publications (Wang 1978).

Second, a dramatic shift occurred in the epistemology of procuratorial work: after the anti-Rightist campaign, proper procuratorial work could not be based only on case experience or implementation of experiments by those

6 See, e.g., Feng (1958) and Liang (1957).

higher up but, instead, had to be informed by “investigation” [*diaocha yanjiu* 调查研究]. As late as March 1957, articles emphasizing the importance of doing more than “close enough” in statistical work still appeared in *People's Procuracy* (Sheng 1957). In April 1958, after the Great Leap Forward had begun, a raft of new reports in *People's Procuracy* emphasized the lessons learned from this particularly intensive form of knowledge gathering and indicated how procuracies were to incorporate this information into their work. This epistemological change matches the findings by Ghosh (2020) elsewhere in the PRC state, which note an ethnographic turn in statistical work during the Great Leap. Finally, the procuracy experienced a dramatic reversal of its staffing allocation boom in 1956, although the data to estimate its precise magnitude are unavailable (Sun 2014, 373).

The Great Leap Forward and the Last Gasp

Even as the procuracy was dramatically downsized during the anti-Rightist campaign, the Great Leap Forward, beginning in 1958, encouraged dramatic restructuring and, in many places, the complete erosion of any previous division of labor or powers between the courts, procuracy, and the public security apparatus. The most obvious incarnation of these changes was the sweeping combination into the above-mentioned “political-legal offices,” which accelerated in 1959. Equally devastating for the procuracy was the abandonment, at the recommendation of the Central Political-Legal Small Group, of the drafting of the criminal and criminal procedure laws as no longer necessary, ending the promise that the procuracy would finally have detailed national criminal legislation to guide its prosecution work and as a standard to evaluate the procedural work done by the PSB or the courts (Huang 2014).

The institutional changes were also reflected in the practices by cadres on the ground. One example was the “one for three” practices [*yizhang ding san zhang, yi yuan ding san yuan* 一长顶三长，一员顶三员], in which, nominally to decrease needless procedural barriers, any worker at the three above-mentioned organizations could take the place of, and act as, a worker at (or leader of) any of the other organs, in part of what Sun (2014) calls “magical” case-handling procedures, which were, of course, anything but. The elimination of interorgan consultation or approval meant that PSB arrest approval requests, for example, could be approved by PSB staff without evidentiary or procedural review by the procuracy, effectively eliminating whatever procuratorial oversight previously existed. The dramatic downsizing of the procuracy makes it difficult to imagine procurators taking similar advantage of this practice.

For the procuracy, the Great Leap took the form of dramatically greater pressure to perform its *de jure* duties faster, better, and with fewer resources, as well as to be involved in production, reflected in 1959 in particular as spreading the spirit of the National Legal Work Meeting that January. Furthermore, the style of the work that procuratorial cadres were expected to perform to achieve these outputs was also required to change: in particular, cadres were to increase their emphasis on “survey work” [*diaocha gongzuo* 调查工作] as the correct way of ascertaining the social facts that underpinned a case decision (Renmin jiancha 1959a). In addition, local procurators found new duties on their plates: the implementation of “evaluation” [*pingshen* 评审] and the subsequent monitoring of “five bad elements” now became their regular responsibility (Renmin jiancha 1959b).

The Lushan meeting in 1959 also renewed the campaign against “rightist tendencies,” especially in the state bureaucracy. The “external” political position of the procuracy continued to weaken: symbolically, the dramatic worsening in the Sino-Soviet relationship reduced the procuracy’s ability to use Soviet experience to protect its stance.⁷ The procuracy also lost support in terms of leadership. In May 1959, Luo Ruiqing, the head of the PSB, replaced Peng Zhen, who was more sympathetic to the procuracy, as head of the Central Political-Legal Small Group (CPLSG), and, at the end of 1960, was succeeded in that position by Xie Fuzhi 谢富治, the new minister of public security (Luo went on to serve as vice premier).

In February 1960, the fifth National Procuratorial Work Conference took place, and its resolution indicates the critical weakness of the procuracy, emphasizing the wholesale adoption of the PSB’s agenda as its own. It also approvingly embraced the “achievements” of the Great Leap Forward in the procuracy, including renewed attention to the mass line and a complete pivot from use of the law “among the people” to its use, instead, “as a weapon against enemies” (Sun 2014, 373). By the autumn of 1960, as the state again sought to streamline staffing, Kang Sheng, veteran of the Yan’an security apparatus and the then–deputy chair of the Chinese People’s Political Consultative Conference Standing Committee, advocated the dissolution of the procuracy, arguing that it had not been necessary before and, therefore, could be dispensed with now (Wang 1999). In October, Xie Fuzhi called a meeting of the CPLSG and also supported a merger of the SPP, the Supreme People’s Court, and the Ministry of Public Security. Zhang Dingcheng’s opposition to this measure was defeated both at the meeting and within the SPP Party committee. In November 1960, the Central Committee passed a resolution that left only twenty to thirty

7 See, e.g., the discussion of *tuo su jian zhi* 拖苏建制 in Sun (2014), 346.

people on the SPP and the PSB Party committee in charge of the newly merged institutions (Sun 2014, 374). The procuracy barely survived, again through the timely intervention in January 1961 of senior leadership. In this case, Peng Zhen and Liu Shaoqi, who had been in the Soviet Union at the time of the decision. In the end, Luo Ruiqing was forced to engage in self-criticism, and the merger was reversed by the Central Committee on February 7. Serious damage had nonetheless already been done, as procuratorial cadres had been transferred to the four winds. The Beijing Procuracy system lost a third of its staff even after cadres were transferred back to political-legal work (Zhang Dingcheng zhuan bian xie zu 1996, 491–92).

The development of the procuracy under Mao was not linear, and the threats to its existence in 1961 were not over. After a meeting in January 1962 attended by seven thousand cadres, the procuracy appears to have been rebuilt to some extent down to the local level: by the eve of the Cultural Revolution in 1965, the Gansu procuracy had been restored to 710 cadres and 94 total procuracies in the province, near its peak of 1,074 cadres and 115 open procuracies in early 1957; in 1962 Shanxi Province had a respectable 80 percent of the staff compared with before the anti-Rightist campaign (Gansu sheng difang shizhi bianzuan weiyuanhui 1995, 37; Sun 2014, 376). Without sustained archival work in multiple sites, it is difficult to know the extent to which these cadres could carry out their work or by which authorities they were guided, given the limitations on source materials. It is clear that, although the advent of the Cultural Revolution did not eliminate the system of criminal justice, as is sometimes assumed (Hurst 2018), it did eliminate the procuracy in 1975, when its powers were constitutionally granted to the PSB. It began its new life in March 1978 after further constitutional reform.

Conclusion

This paper outlines the main events in procuratorial development from 1949 to 1961 and to foreground conflicts over even highly political concepts in criminal and administrative law during periods sometimes associated with the absence of law. By doing so, it highlights the richness of that history for students of law in China and presents an opportunity for reflection on contemporary developments of the procuracy in the light of that history.

This history demonstrates that something can be gained by revisiting the previous periodizations of procuratorial development, which might rely excessively on legislative history. It appears, for example, that the “golden” age for the procuracy may not have begun until 1955 and may have been a

matter of necessity as much as with its enshrinement in the new constitution. Furthermore, the period sometimes characterized as a “decline” in the procuracy after the anti-Rightist campaign could be usefully segmented into separate transformations: first, an abandonment of the “restraint” [*zhiyue* 制约] functions of procuratorial work in “administrative” practice, and, second, after the Great Leap Forward, which transformed the way in which legal knowledge and information were sought and produced by procurators on the ground.

At its outset, the procuracy was an experimental institution that found it difficult to attract investment from an overtaxed state apparatus. After it obtained this investment, it became a site of contestation over the role of law in Maoist China (one of many). In particular, its role as a reviewer and gatekeeper of state agent behavior put it at odds with its institutional siblings and in a vulnerable position in which even the constitution (to paraphrase Zhou Enlai) was as much an aspiration as a reality (Zhou 1956). Procurators disagreed among themselves about how policy should be enacted in procuratorial work and with other actors in the state apparatus over the importance of procedure.

Many puzzles in the procuracy’s history remain unsolved on their own terms. Despite the hostility toward it from several quarters, the procuracy was unexpectedly difficult to eliminate. Even with powerful enemies in the PSB, the procuracy outlasted many similarly disadvantaged organs, such as the Ministry of Supervision and the Ministry of Justice, which were eliminated in 1959. This may have been the case in part because of the procuracy’s explicit standing in the constitution, but it may also have derived from its close association with the Soviet model or the successful maneuvering of actors within the procuracy. More thorough research into how legal actors did and did not take advantage of the constitutional moment and the procuracy’s other assets could shed important light on how the procuracy survived repeated calls for its abolition.

Additionally, the procuracy was forced by both internal shortages and external challenges to develop flexible ways to accomplish its institutional goals and demonstrate its service to national objectives. It did so in part through simply giving campaign activities a veneer of legality, but the creation of procuratorial correspondents shows genuine adaptation of a legal mandate to a mass form, inviting further inquiry into the roles that the procuracy played in “justice” in Maoist China, including its role in producing, reviewing, and reversing erroneous judgments.⁸

8 The role of rehabilitation and restorative justice is part of the subject of Engman and Leese (2018).

Finally, the story of the Maoist procuracy is one of dramatic subnational heterogeneity. This heterogeneity calls for both serious comparative case studies that could help solve other puzzles about legal variation during the reform period and more high-level attempts to understand variations in procuratorial practice and the initial reasons for them.

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