



## **National Integrity System**

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## Report Author

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## Abbreviations

PRC	People's Republic of China
CCP	China Communist Party
NPC	National People's Congress
CPPCC	Chinese People's Political Consultative Conference
CCDI	Central Committee for Discipline Inspection
SOE	State-owned enterprise
CCTV	China Central Television
TI	Transparency International
WB	World Bank
ADB	Asian Development Bank
UNDP	United Nations Development Programme
OECD	Organisation for Economic Co-operation and Development

## Currency

The currency in China is the Chinese yuan renminbi (CNY) and the rate of the renminbi to the US dollar in September 2006 was approximately CNY 1 to US\$0.13.

## About the NIS

### What Is the NIS?

The National Integrity System encompasses the key institutions, sectors or specific activities (the 'pillars') that contribute to integrity, transparency and accountability in a society. When it functions properly, the NIS combats corruption as part of the larger struggle against abuse of power, malfeasance and misappropriation in all its forms. Strengthening the NIS is about promoting better governance across all aspects of society.

The concept of the NIS has been developed and promoted by Transparency International as part of TI's holistic approach to combating corruption.<sup>1</sup> While there is no blueprint for an effective system to prevent corruption, there is a growing international consensus as to the salient institutional features that work best to prevent corruption and promote integrity. The country studies are based on an assessment of the quality of institutions relevant to the overall anti-corruption system.

### Why Conduct NIS Country Studies?

The purpose of each country study is to assess the National Integrity System, in theory (law and regulatory provisions) and practice (how well it works). The studies provide both benchmarks for measuring further developments and a basis for comparison among a range of countries.

The studies provide a starting point for signalling areas requiring priority action. They also form the basis from which stakeholders may assess existing anti-corruption initiatives. NIS country studies help explain, for example, which pillars have been more successful and why, whether they are mutually supportive and what factors support or inhibit their effectiveness. Country studies also assess where the emphasis should be placed on improving the system and what factors are required to support the overall development of the NIS.

The country studies create a sound empirical basis that adds to our understanding of strong or weak performers. Within a region, in which several countries may function with similar economic, political or social frameworks, the results of the study can create a sense of peer pressure for reform as well as an opportunity for learning from those countries that are in similar stages of development.

For Transparency International, country studies are an important measurement tool. They complement TI's global indices and surveys, such as the Corruption Perceptions Index, Bribe Payers Index and Global Corruption Barometer, as well as national surveys, by exploring the specific practices and constraints within countries and providing qualitative empirical results about the rules and practices that govern integrity systems. More than 55 such country studies have been completed as of August 2006.

TI believes that it is necessary to understand the provision for and capacity of the NIS pillars, as well as their interaction and practices, to be able to diagnose corruption risks and develop strategies to counter those risks. NIS Country Studies are a unique product of Transparency International, as they reflect the systemic approach TI takes to curbing corruption and the independence of analysis that can be offered by the world's leading anti-corruption NGO.

### Methodology of the NIS Country Studies

The NIS country studies offer a qualitative assessment of the integrity system in a country. The studies are based on both objective and subjective sources of data, which differ in quantity in each country evaluated. The studies therefore require both desk research and field research.

At least one focus group is convened as part of the country study. Focus group participants include anti-corruption and governance experts drawn from government (including donors, where relevant), the private sector, the professions (e.g. lawyers, accountants and engineers), media and civil society. The aim of the focus groups is for a broad base of stakeholders to evaluate the NIS and to comment on the draft NIS country study. The results of the meeting then inform further revision of the country study.

Each country study is reviewed by an external expert referee.

## Executive Summary

The National Integrity System of China took shape at an early stage in the establishment of the People's Republic of China and gradually developed in the course of China's reform after 1978. With the development of China's socialist market economy, the Disciplinary Inspection Commission of the China Communist Party and the State Audit Office were respectively re-established and created, and functions of other integrity pillars were also strengthened. The media, business sector and civil society also gained more space for development.

In the early stages of the reform, anti-corruption efforts in China mainly took the form of ethical education and severe punishment. Beginning in the late 1990s China realised the importance of gradual institution building and promulgated a series of laws, regulations and measures. In the past decade, China has improved its National Integrity System and strengthened institutional roles and restricted the power of the government through an administrative approval system and by promoting administration by law. It redefined the demarcation line between public and private interests and raised the accountability of officials, introducing a system of personal income declaration and reporting of major personal matters among leading officials. Furthermore, it increased fairness and transparency of government procurement and built a Tangible Construction Market (a market in which bidding activities take place, providing one-stop service), introduced separate management of revenue and expenditure, gave the audit offices greater roles, encouraged local governments' institutional innovation and strengthened international cooperation. These institutions and measures became important elements of China's NIS.

However, as China is in the process of unprecedented reform and transition in its economic, political and social systems and a proper legal anti-corruption framework is yet to develop, there are still huge opportunities for corruption. Corruption remains a big challenge in China. For example, NPC deputies do not exercise effective oversight of other areas, especially financial expenditure. Courts, expenses and appointment and removal of judges and judicial personnel are in effect under the control of government at the same levels, leading to localisation of judicial power. Over-regulation of the economy has impeded the private sector and civil society. Extra-budgetary funds provide opportunities for corruption, and government transparency is limited. Certain regulations are too strict, require renewal or are redundant, impeding their implementation.

China's national integrity system can be improved through two kinds of reforms.

First, the roles and positions of various departments in the national integrity system must be adjusted so as to enable each department to display to the fullest extent its powers and functions and form an organic and three-dimensional anti-corruption network. For example:

- the NPC should strengthen its oversight of the government, judiciary and law-enforcement agencies,
- the judiciary should be made more independent, with adequate and independent budget support and a group of specialised personnel with a high degree of integrity,
- the status of audit offices should be enhanced through giving it responsibility for the legislature and providing adequate and independent budgets and specialised auditors, and
- the state should continue to retreat from over-regulating and over-intervening in the economy in order to maximise the roles of the private sector and civil society, and these groups should pay more attention to corruption.

Second, institutional reform must continue and improve to enhance the accountability of all departments and make them more transparent and open. In this sense, China should increase the disclosure and transparency of public service departments, reform and improve the budget and financial system and unify and renew laws, regulations and rules concerning the integrity system.

Currently, anti-corruption activity in China is at a crucial juncture, with certain progress already made but facing a long road ahead. In particular, there is still much room for improvement with respect to institution building. In this sense, the introduction of the analytical framework of the TI National Integrity System and its application in China for evaluation will promote China's anti-corruption efforts.

## Priorities and Recommendations

In general, after half a century's development – in particular, the building of integrity institutions and enactment of laws, regulations and specific measures after 1997 – China has improved its national integrity system. These legal documents serve a basic and core role in the building of China's national integrity system. However, as China is in the process of unprecedented reform and transition in its economic, political and social systems, there is still soil for corruption to grow. Many institutions are not compatible with the requirements of the socialist market economy. The anti-corruption situation remains very grave. There is still great room for improvement in China's national integrity system.

There are two major objectives for improvement and development of China's integrity system. One is the necessity to adjust the roles and positions of various departments in the national integrity system, so as to enable each department to display to the fullest extent its powers and functions and form an organic and three-dimensional anti-corruption network. The other is the necessity to push institutional reform and improvements to enhance the accountability of all departments and make them more transparent and open.

### Strengthening of Roles and Positions of Departments

- **Strengthened NPC Oversight of the Government, Judicial and Law-enforcement Agencies**

As legislator, the NPC plays an important part in China's political system. The People's Congress system is China's basic political and democratic system and serves as the fundamental institutional basis for the national integrity system. The tasks of the NPC are to represent the People, to fully exploit the democratic mechanisms for supervising and monitoring the government, to realise good social governance and to struggle against serious corruption within the government. However, due to China's current financial system, especially its imperfect budget system, NPC deputies' limited channels for hearing from the people, and the absence of any integrity constraint mechanism on NPC deputies, the oversight role of the NPC, especially its oversight of financial expenditure, has not been brought into full play.

- **Increased Judicial Independence**

The Organisation Laws of the People's court and the Organisation Law of People's procuratorate provide that China's local judiciary must accept the dual leadership of the People's congresses at the same level and the judiciary at the next higher level. But in reality, as the personnel and financial management systems are mainly tiered, the courts, appointment and removal of judges and judicial personnel and expenses are under the control of government at the same levels. This has led to localisation of judicial power. With respect to procedure, the judiciary has a requesting and reporting system that requires major cases to be reported to the judicial committees within the courts. Although the purpose of establishing such a system is to reduce the number of wrongfully determined cases, it does affect judges' independent exercise of judicial power, thus making the appeal procedures less meaningful. All these have affected the independence of the judiciary. In order to promote integrity, it is imperative to ensure the independence of the judiciary and guarantee that judges have adequate and independent budget support and a group of specialised personnel with a high degree of integrity.

- **Enhanced Status of Audit Offices**

Audit offices are important components of China's national integrity system, as they are watchdogs of state assets and expenditures. They are also the institutional guarantee to minimise corruption and abuse of public funds by government departments. The audit offices officially came into being in September 1983, and their roles have not been brought into full play during a considerable period of time. Only at the end of the 1990s did Chinese audit offices begin to display their increasingly important roles. Audit reports began to be made public starting in 1998, exposing violations of financial rules and regulations by government agencies. Every year, the report stirs up a whirlwind, winning popular applause and exerting powerful social pressure on relevant government agencies. Over the past few years, the scope covered by auditing has been expanded and the degree of disclosure has been enhanced. But it is necessary to enhance its status further, giving it responsibility for the legislature, in order for its role to be fully realised. More investment should be made in the auditing institutions, including adequate and independent budgets and highly specialised auditors.

- **Increased Roles for the Private Sector and Civil Society**

China is now living in the transition from centrally controlled planned economy to socialist market economy. Under the planned economy system, public departments possessed all resources in the society while the private sector and civil society were basically in a subordinate position. It was only after 1978, when the country started economic reform and the transition process, that the private sector developed rapidly and civil society also gained some ground. They are expected to play an increasingly important role in China's public affairs management, as is occurring worldwide. The state should continue to retreat from over-regulating and over-intervening in the economy, giving more space to the private sector and civil society to play their roles. Meanwhile, China's private sector and civil society have not given enough attention to corruption. If their roles are to be brought into full play, such attention would help promote public oversight but also enhance the restriction on power of the government. This will, in turn, facilitate internal integrity and self-discipline in the private sector and civil society and create a social culture with high probity and integrity.

## **Improvement of Mechanisms of the National Integrity System**

- **Increased Disclosure and Transparency of Public Service Departments**

Transparency is crucial to increase accountability and deter corruption. In the course of reform and opening up, the Chinese government has introduced a series of measures to open administrative affairs to good effect. But generally, transparency still remains relatively low, constituting a major barrier to oversight of power. Sunshine is the best steriliser. Disclosure and transparency is most important to ensure rational participation in policy decision making by citizens and to realise effective oversight.

- **Reform and Improvement of the Budget and Financial System**

At the beginning of the economic reform, China relaxed control of the financial system, allowing local governments and government departments to create incomes so as to encourage local governments to develop their own economies and ease fund shortages. Although the policy played its due role in a given historical period, it has also caused distortions in the financial system and resulted in the existence of extra-budgetary funds, which provide more opportunities for corruption. At present, the Chinese government is establishing a public finance and public budget system. But due to the problems left over from the past, the reform has encountered great difficulty. This has, perhaps, become the institutional reason why many corrupt activities cannot be curtailed from their roots. Therefore, China should strengthen budget management and reduce off-budget financing.

- **Unified and Renewed Laws, Regulations and Rules Concerning the Integrity System**

A large number of laws, rules, regulations and legal documents have been produced since 1978 by the NPC, the CCP, the government, the Supreme People's Procuratorate and the Supreme People's Court. These legal instruments have detailed provisions concerning the integrity of public service personnel. If viewed from this perspective, China is one of the countries in the world that has the greatest constraints on the behaviour of public service personnel. However, due to the fact that some regulations are too strict or have not been renewed in a timely way to respond to the changes in the corruption situation, or that different departments have issued documents with the same contents, some systems cannot, in reality, be implemented strictly. This has affected the authority of the whole integrity system. It is, therefore, necessary for China to sort out existing integrity instruments and make unified laws and regulations, such as an anti-corruption law, to specify the requirements and provisions for building a clean government.

## Country Profile

The People's Republic of China (China) is a socialist state. The China Communist Party (CCP) is the ruling party, leading in the system of multi-party cooperation and political consultation system. The agencies through which the people exercise state power are the National People's Congress (NPC) and the local people's congresses at different levels, which are instituted through democratic election, accountable to the people and subject to their oversight. All administrative, judicial and procuratorial agencies of the state are created by the people's congresses, accountable to them and subject to their oversight. China has a unified system; the division of functions and powers between the central and local state agencies is guided by the principle of giving full play to the initiative and enthusiasm of the local authorities under unified central leadership.

China has 56 nationalities. The people of the Han nationality make up 91 per cent of the total population. There are nine political parties, namely the CCP and eight other democratic (non-communist) parties. The CCP is the ruling party, and the democratic parties participate in state affairs through the Chinese People's Political Consultative Conference. The current 10th NPC, elected in March 2003, has 2,985 deputies, indirectly chosen from all regions. China administers 23 provinces, 5 autonomous regions, 4 centrally administered municipalities and 2 special administrative regions, Hong Kong and Macao. Under them are 2,862 county-level administrative units.

### A Historical Review of China's National Integrity System

Since the founding of the People's Republic of China (PRC), 57 years have passed. During this period, China's national integrity system has undergone the phases of establishment, adjustment and maturity, in which the forces of corruption and anti-corruption wrestled with each other repeatedly.

When the PRC was founded in October 1949, a full-scale reconstruction was undertaken. All the national institutions and systems had to be built almost from ruin. The CCP, as the party in power, took a clear-cut stand against corruption from the very beginning. The party set up preliminary state institutions and basic systems that made up the rudiments of the Chinese national integrity system.

For the 10 years beginning in May 1966, China experienced the catastrophe of the Great Cultural Revolution, which not only caused the country to fall into long-drawn-out chaos but also significantly affected the Chinese anti-corruption struggle. During this period, anti-corruption institutions failed to proceed with their efforts normally, as the Great Cultural Revolution had caused both state institutions and the basic system to cease functioning and severely weakened the anti-corruption institutions. The emerging national integrity system of China was greatly damaged.

In December 1978, the 3rd Plenary Session of the 11th Central Committee of the CCP was summoned. It not only served as a milestone for the revolution and development in China after it but also had profound significance for Chinese anti-corruption efforts. A series of significant resolutions were passed in the conference, including the restoration of the Central Committee for Discipline Inspection, thus reactivating the anti-corruption institutions and system.

The instituting of the Reform pressed China into a historical revolution on a grand scale. Since the inception of this policy in 1978, China has begun its transition from planned economy to socialist market economy and has experienced dramatic changes in its politics, economy and social system. The corruption situation worsened drastically in this stage as offenders adopted more complex and covert corruption techniques. However, it is quite obvious that the variation of corruption in its categories and characteristics is closely related to economic transition, especially to the fact that regulations governing the market economy system remained to be drafted and further improved. The extension of corruption greatly damaged the economic order, drawing widespread attention both domestically and internationally. As a result, there arose increasingly strong protests against corruption.

After more than 10 years of exploration and practice, the 14th National Congress of the CCP, summoned in October 2002, identified the objective of Chinese economic institutional reform as establishing a system of socialist market economy. At this stage, China intensified its efforts in the investigation and punishment of corruption, resulting in more than 60,000 cases of corruption placed on file for investigation every year. At the same time, in the process of setting up a comprehensive socialist market economy system, the central government paid special attention to its structure, issuing and revising large numbers of laws and regulations. These contributed significantly to closing loopholes in the system and decreasing opportunities for corruption.

In November 2002, the 16th National Congress of the CCP further formulated the major mission of perfecting the socialist market economy system, indicating that Chinese economic transition had entered into a new stage of mature development. At this stage, the comprehensive strategic framework of the Chinese anti-corruption campaign was further consolidated. This framework, made up of education, supervision and prevention, stressed the importance of proper regulation.

**Table 1 Characteristics of the National Integrity System at Different Historical Stages**

	<b>In the early days of the PRC</b>	<b>During the Great Cultural Revolution</b>	<b>In the initial days of the reform and opening up</b>	<b>In the period of deepening reform</b>	<b>At the present time</b>
<b>Time Span</b>	1949–1966	1966–1978	1978–1992	1992–2002	2002–
<b>System Background</b>	Initial construction	In disorder	Reconstruction	Explosive revolution	Formation of the new system
<b>Seriousness of Corruption</b>	Low	–	High	High	High
<b>Characteristics of Corruption</b>	Privilege ideas giving birth to the illegal possession of public assets and the squandering of public funds; weakness in economy breeding the behaviours of speculating and profiteering	Getting around the paralyzed state apparatus by means of corruption	Revolution in the two-tier system creating opportunities for rent-seeking, resulting in a vague line between state and privately owned properties	System transition giving rise to rent-seeking opportunities; corruption aggravated in the process of privatisation	Corruption emerging from the market economy becoming highlighted
<b>Category of Corruption</b>	Embezzlement, official profiteering, practice of favouritism and waste	Backdoor dealings	Backdoor dealings, embezzlement, misappropriation, speculating and profiteering	Bribe-taking, embezzlement, misappropriation and secretly dividing state-owned assets, administrative monopoly	Bribe-taking, embezzlement and administrative monopoly
<b>Fields of Corruption</b>	—	—	Distribution industries, banks	Financial industries, state-owned enterprises, building industries, cadre personnel, judicial and administrative law enforcement fields	Construction industries, cadre personnel and financial industries
<b>Social Awareness of Corruption</b>	High	Low	Relatively high	High	High
<b>Efforts against Corruption</b>	Education and punishment	—	Education and punishment	Punishment, education and prevention	Prevention, punishment and education
<b>Intensity of Punishment</b>	Great	—	Relatively great	Great	Great
<b>Civil Involvement</b>	Great	—	Relatively great	Relatively great	Great
<b>Anti-corruption System</b>	Initial exploration	—	Recovery	Further improvement	Being basically improved

## Corruption Profile

Since the reform of 1978, China has created a miracle of economic development, with the average annual rate of GDP increase exceeding 9 per cent for more than 20 consecutive years.<sup>2</sup> However, widespread corruption accompanied rapid economic growth, and this has become a threat to China's economy and a substantial barrier to long-term political and social development. Several recent social surveys targeted at various groups of people in China show that corruption, together with unemployment and an increase in the gap between rich and poor, has become one of the most urgent issues in society.<sup>3</sup> Corruption has caused huge economic losses and become a serious challenge to the legitimacy of the government as well.

In the early years after the establishment of the People's Republic of China, China effectively curbed the spread of corruption by strong ethical restrictions and severe punishment and preliminarily established anti-corruption agencies and systems. After the reform was carried out in 1978, however, China began its transition from planned economic system to market economic system. Many new economic entities and activities emerged. In the course of this change, as the old system broke up and a new system to address the new economic entities and activities had not yet been established, there arose many opportunities for the growth and spread of corruption. International experience suggests that transitional countries usually have serious corruption issues. Economic liberalisation, decentralisation, privatisation and economic globalisation all facilitate corruption.

As shown in both research of Chinese scholars and the Corruption Perceptions Index of TI,<sup>4</sup> in the early years of the 1980s, corruption in China was not severe, while it increased dramatically with the progress of economic reform and reached a very serious level in the middle 1990s. Since the mid-1990s, because China gradually intensified its punishments of corruption, and particularly because China made great progress on system-building, the spread of corruption has been controlled to a certain degree. However, currently, corruption in China is still at a comparatively severe level. In recent years, with implementation of a series of systems and measures, corrupt activities in some areas have been effectively curbed, while corruption still prevails in certain other areas.

In the initial stage of China's economic reform, major forms of corruption were embezzlement and misappropriation, which were focused in the capital and financial administration departments. Thereafter, the proportion of officials receiving bribes rose gradually; this has now become the main form of corruption in China. Bribery is concentrated in personnel appointments, public procurement and contracts, banking and administrative monopoly industries.<sup>5</sup> Corruption in personnel appointment is more and more severe, and it seriously damages the image of the government. Corruption in public procurement and contracts is closely related to China's large-scale infrastructure investment in its economic reform, such as highway construction. Just as with corruption in capital and administrative monopoly industries, this has caused very significant economic losses.<sup>6</sup>

## Anti-corruption Activities

In 1978, China began its reform and opening up and started the process of building a socialist market economy. With the changes in the economic system, the political system, including the national integrity system, has also undergone major changes, giving shape to a new national integrity system framework compatible with the socialist market economy. China has also taken innovative measures to cope with new forms of corruption that have appeared in the process of economic transition. Since 1997, China has emphasised creating a clean government through institution-building, enacting a series of laws, regulations and legal documents. The following eight important institutional changes took place over the past decade.

### 1. Strengthened Institutional Roles

Beginning in 1997, the 15th National Congress of the CCP put forward the idea of adopting a combination of measures to target both symptoms and root causes of corruption, stressing the necessity to remove the soil for breeding corruption while deepening reform. The reliance on mass campaigns to counter corruption was reduced, and institution-building was given attention that it had never received before. Over the past decade, China has promulgated laws including the Administrative Supervision Law, the Tender and Bidding Law, the Government Procurement Law, the Administrative Permission Law and the Civil Servant Law. The CCP also formulated CCP Regulations on Internal Supervision (for trial implementation) and Regulations on Disciplinary Sanctions. These have, to a certain extent, helped reduce the opportunities for corruption and thwart its spread.

The CCP Regulations on Internal Supervision (for Trial Implementation) and the CCP Regulations on Disciplinary Sanctions, which were formulated in February 2004 by the CCP Central Committee, stress the comparative independence of the CCP Central Committee for Discipline Inspection (CCDI), encourage Party members to report corruption-related activities and make special stipulations on supervision by the public, which was introduced for the first time in the history of the CCP. In October 2004, the CCP Central Committee revised and published Regulations for Protection of the Rights of Members of the China Communist Party, which include detailed provisions concerning measures for protecting Party members who report corruption.

### 2. Restricting the Power of Government

Centralisation of power is a salient feature of the planned economy. This has not only stood in the way of economic development but also provided significant opportunity for corruption in the process of transition to the market economic system. It is, therefore, an important task to trim, restrict and regulate the power of the government.

Starting from 1997, China began to institute reforms of the administrative approval system at both the central and local levels. From October 2002 to May 2004, the State Council abolished or adjusted on three occasions nearly 1,800 items, almost half of the total, which had been subject to administrative approval. Local governments carried out similar reforms.

### 3. Redefining the Demarcation Line between Public and Private Interests

To reduce the abuse of public power, the CCP Central Committee and the State Council issued a number of documents banning government and Party agencies and Party and government officials from engaging in business or launching enterprises. In 1998, the CCP Central Committee and the State Council passed and firmly implemented the decision on banning the army, armed police and law-enforcement agencies from engaging in business. At the same time, China has imposed increasingly strict requirements on government officials taking up posts in businesses and enterprises. In 2004, for example, the CCP CCDI and the CCP Central Organisational Department issued a joint circular instructing Party committees, governments and related departments at all levels not to give approval for Party and government officials to take up concurrent posts in enterprises.

China has also strengthened checks on and supervision of power. In April 2004, the State Council promulgated the Provisional Regulations on Resignation of Party and Government Cadres, which brought to an end the life-long tenure system for cadres. As a result, a number of senior Party and government officials have had to resign due to dereliction of duty.

#### **4. Promoting Disclosure to Increase Transparency**

To improve transparency of public agencies, China began around the year 2000 to introduce the practice of opening up administrative affairs, factory affairs and village affairs in government agencies, state-owned enterprises and rural grassroots organisations (known as the Three Disclosures). In December 2000, the General Office of the CCP Central Committee and the State Council issued a joint circular demanding all-round opening of administrative affairs in all governments at and above village (town) and county levels.

In January 2005, the CCP Central Committee published a programme of action for building a system for punishing and preventing corruption by giving equal emphasis to education, institutions and supervision. The programme stresses the necessity to prevent and control corruption by way of reform and to accelerate the pace of legislation against corruption, especially the laws and regulations concerning the ethics of public servants. The program sets the goal of completing a basic framework of controlling and preventing corruption by 2010.

On 24 March 2005, the General Offices of the CCP Central Committee and the State Council issued an opinion on further implementation of opening administrative affairs, reaffirming that all administrative affairs and public services, except those that concern state secrets, business secrets and privacy that are protected by law, must be truthfully opened in accordance with the relevant laws, regulations and policies. It demands that affairs must be made open in a timely way and by convenient and prompt means according to stipulated rules and procedures. At the same time, cities such as Guangzhou and Shanghai are in the process of making local rules concerning the opening of government information.

#### **5. Increasing Fairness and Transparency of Government Procurement**

With the rapid development of China's economy, the government has made a large-scale investment in infrastructure, thus creating abundant opportunities for corruption. To prevent corruption in the area of public procurement, the Ministry of Supervision started in 1994 to establish a Tangible Construction Market to carry out public transfer and bidding on buildings or urban infrastructure projects that involve investment by the government or companies in which the state has a controlling interest. At present, among 336 cities, 325 have set up such procurement centres. The move has enhanced the fairness and transparency of government procurement and reduced the opportunities for behind-the-scenes trading.

In addition, China established an Olympic Supervision Committee along with the Olympic Organising Committee set up on 13 December 2001 in the hope of preventing corruption in the course of preparing for and hosting the 2008 Summer Olympics in Beijing. Within the Olympic Organising Committee, there is also a supervision and audit department to undertake the auditing work involved. One of the important tasks of the Olympic Supervision Committee and the supervision and audit department of the Olympic Organising Committee is to strive to reduce corruption risks, especially in the process of public bidding for construction projects. For this purpose, the supervision and audit departments of the Olympic Organising Committee have cooperated with Transparency International in Berlin and the Anticorruption and Governance Research Center of Tsinghua University.

#### **6. Expenditure and Audit Reform**

The current fiscal system of China is plagued by lax execution of the budget, the existence of a large amount of extra-budgetary funds and a serious gap between receipts and expenditures. Some agencies with the power to impose fines and confiscation or to collect administrative receipts have mismanaged their budget, making it possible for corruption to breed. To intensify budget regulation and build a public finance system, the Ministry of Supervision, the Ministry of Finance, the National Development and Reform Commission, the People's Bank of China and the State Auditing Administration issued joint guidelines on 23 June 1999 on the execution in 2000 of regulations requiring separate management of revenue and expenditure. It required that budget management of governments' income from administrative charges, penalties and seizures be implemented. Once the system was implemented, the fiscal receipts and expenditures of government departments became more transparent, weakening the motive of arbitrary charges, fines and fund-raising quotas for the sake of departmental interests. The system has also limited the opportunity to set up discreet private departmental coffers, thus weakening the motive for corruption.

Since 1998, the auditing work report has been made public, eliciting significant response from the general public. Beginning in 2003, the audit report was made public in full as soon as it was completed.

The annual audit report exposes cases of violation of financial regulations by government agencies and even by leading officials. The 2005 audit report shows recurrent cases of falsification of statements of off-budgetary funds, transfer and misappropriation or appropriation of fiscal funds, setting up off-the-books private accounts and discreet private coffers. Almost every problem exposed during the audit prompts punishment of related personnel.

The increasingly important role of auditing reports has drawn extensive public attention. It has not only tightened the effective supervision over the government but also intensified the important role of the audit departments as one of the linchpins of the national integrity system.

## **7. Local Governments Active in Institutional Innovation**

Over the past 10 years, many local governments and discipline inspection agencies have set up new systems to control and prevent corruption. For example, from 1995 to 1997, the Zhangjiajie Municipal Discipline Commission introduced the system of selecting and dispatching discipline commission secretaries, transferring the power of nomination of such secretaries from the Party committees at the same level to the municipal Discipline Commission. This has achieved significant results, with the number of cases uncovered and concluded rising sharply each year.<sup>7</sup> From 2001 on, Zhejiang and Guangdong carried out experiments in the reform of the car-use system, cancelling the use of public service vehicles and issuing subsidies to public service personnel according to their positions and volume of work. This has not only made some income visible but also helped reduce waste and corruption.<sup>8</sup>

## **8. Strengthening International Cooperation**

In recent years, such problems as the flight of corrupt officials and capital have increased, causing the Chinese government to feel pressed to strengthen international cooperation. China has established close cooperation with some multilateral aid and development institutes and international NGOs, such as Transparency International, the World Bank, the Asian Development Bank (ADB), the United Nations Development Programme (UNDP) and the Organisation for Economic Co-operation and Development (OECD). China signed the UN Convention against Inter-Country Organised Crimes and the UN Convention against Corruption on 23 September 2003 and 10 December 2003 respectively. It also ratified the UN Convention against Corruption on 28 October 2005. Furthermore, China joined in the ADB-OECD Action Plan for Asia-Pacific in April 2005.

Of course, due to differences in ideology, culture and legal system between China and western countries, the lack of adequate binding force of international conventions and the small number of bilateral extradition agreements with other countries, China is still facing many difficulties in international cooperation as far as the anti-corruption struggle is concerned.

# The National Integrity System

## Political Parties

The Chinese political parties include the CCP and eight democratic parties. The CCP is in the leading position in China's politics, economy and society. As the ruling party, it leads and coordinates the work of the People's congresses and their standing committees, executives, the People's court and People's procuratorates. The CCP devotes itself to building the prosperity of the country and the people and has made great efforts to introduce good governance to make the government clean and transparent. The eight democratic parties play an important and indispensable part in supervising and promoting the building of a clean government.

The CCP was founded on 1 July 1921. It seized political power and founded the People's Republic of China (PRC) in 1949. By the end of December 2005, there were about 68 million CCP members. The supreme agency of power of the CCP is the CCP National Congress, which is generally held once every five years to elect its Central Committee and the CCDI. The Central Committee is responsible for all work of the CCP when the National Congress is not in session, and it elects members of the Political Bureau of the CCP and its Standing Committee. It has a term of five years. The Central Committee has a secretariat to undertake the routine work of the CCP. In 2002, the 16th National Party Congress elected a new Standing Committee of the Political Bureau, which has nine members. They are the top leaders of the CCP.

All the overhead expenses of the CCP and other parties are funded by the state treasury except for a small part covered by party membership fees. The budget is examined and approved at the annual NPC plenary meeting. At present, the CCP Central Committee has the Central Committee for Discipline Inspection, the Organisation Department, Publicity Department, United Front Work Department, International Liaison Department and Committee of Political and Legislative Affairs. As far as the integrity mechanism is concerned, the Organisation Department, the CCDI and the Committee of Political and Legislative Affairs play the key roles. The CCDI is responsible for building of intra-Party integrity and Party member conduct. The Organisation Department is responsible for training, assessing, promoting, appointing and removing cadres. The Committee of Political and Legislative Affairs is responsible for coordinating the handling of major cases and events of public security.

As the ruling party, the CCP is a major driving force and the core leader in building China's integrity system. After reform and opening up, the CCP Central Committee issued 'Proposals on Strengthening Party Member Conduct and Clean Government' (1990), the 'Decision of the CCP Central Committee on Strengthening and Improving the Party Member Conduct' (2001) and other important documents. In January 2005, the CCP Central Committee issued the 'Program of Action for Building a System for Controlling and Preventing Corruption by Giving Equal Emphasis to Education, Institution Building and Supervision'. The document laid down the general anti-corruption strategy of adopting a combination of measures to tackle both the symptoms and root causes through both punishment and prevention, with emphasis on prevention. The principled strategy has gone a long way to promoting China's national integrity system.

Together with such interest groups as trade unions, women's federations and the Communist Youth League, the eight democratic parties participate in handling and discussing state affairs and oversee the work of the CCP and the government through the Chinese People's Political Consultative Conference (CPPCC). However, these parties must carry out their work under the leadership of the CCP. They had more than 600,000 members in total by the end of 2002.<sup>9</sup>

The CCP and other democratic parties carry on their activities within the framework of the Constitution of the PRC. As the ruling party, the CCP should be supervised by the democratic parties and common citizens, according to the Constitution. Before enacting important policies or guidelines, it is required to obtain the opinions of different groups of society by way of the CPPCC. If such a policy needs to be turned into law, it must be approved by the NPC. The CCP emphasises keeping close contact with the mass of the people. It has set up organisations at all levels for receiving letters and visits from the people in order to hear their complaints, accept their input and help them solve problems and difficulties that they encounter. Furthermore, a series of strict accountability institutions have been established within the party.

The CCP has formulated a strict code of conduct for its members and issued a large number of rules and documents to regulate their behaviour. As more than 90 per cent of government officials are CCP

members, the rules and regulations of the CCP are binding on a substantial number of officials of all government departments, People's procuratorates and People's courts. In fact, many documents have been issued jointly in the name of the CCP Central Committee and the State Council.

Apart from the Constitution of the China Communist Party, the CCP has issued several documents to regulate CCP members' conduct, such as the Code of Conduct for Intra-Party Political Activities (1980), the Several Standards on Political Honesty of Leading Cadres Who Are Members of the China Communist Party (for Trial Implementation) (1997), the Regulations on Intra-Party Supervision (2004) and the Regulations on Disciplinary Sanctions (2004). The CCP discipline inspection agencies are responsible for supervising the enforcement and implementation of these rules and regulations.

The CCP regards corruption as a disciplinary offence that violates the purpose of the Party and shows a loss of faith by the relevant Party member. During the economic transitional period, when corruption occurs readily, the CCP Central Committee, in line with economic and social development, has issued a large number of circulars, documents and regulations to establish strict and detailed rules concerning Party members, especially leading members, in their housing, use of government telephones and cars, acceptance of gifts and banquet invitations, trips abroad, engaging in business and establishing enterprises and holding concurrent jobs.

In May 1985, the CCP Central Committee and the State Council issued the Decisions on Banning Children and Spouses of Leading Cadres from Going into Business. In February 2001, the CCDI issued specific regulations concerning the running of businesses by spouses and children of leading cadres of Party committees and government officials above the region level. This document bans them from engaging in the following business activities: real estate development and operation and relevant compensated intermediary activities such as agency, evaluation and consultancy; acting as advertising agents or releasing advertisements; operating for-profit singing halls, dancing halls and night clubs and other entertainment businesses or bathing and massaging businesses; and all other business activities or enterprises that may come into conflict with the public interest. Those spouses and children who were already in business are required to resign. Otherwise, the leading cadres are required to quit their posts or receive disciplinary sanctions by the CCP.

In 1988, the General Offices of the CCP Central Committee and the State Council issued regulations on going into business and establishing enterprises by people who have retired from the Party and government agencies at and above the county level, banning them from establishing commercial enterprises or taking up posts in these enterprises, from receiving payments for intermediary services in trading of goods, from engaging in financial activities and from taking up any leading posts (including honorary posts) and management posts in state-owned enterprises and foreign-invested enterprises. However, this system has not been fully implemented, due to the fact that an information disclosure scheme has not been set up.

The CCP Central Committee and the State Council issued Regulations Concerning the Reporting of Income by Leaders and Cadres of Party and Government Organisations at or above the County (Department) Level and Regulations on Reporting Major Personal Matters Concerning Leading Cadres in 1995 and 1997 respectively. The regulations demand all leading cadres at and above the county (department) level to declare their personal income regularly and report major personal matters (such as leading cadres, their spouses or children going into business or going abroad for private purposes). But the system still needs improvement as China's financial credit system has not been established, declarations may not be made public and there is no provision for supervision and verification.

The Constitution of the China Communist Party provides that any person may report to the discipline supervision departments of the CCP any disciplinary violation by any Party member. If a disciplinary violation is proved, the Party member involved may face such disciplinary sanctions as warning, serious warning, removal from Party posts, probation within the Party and expulsion from the Party. If a Party member violates laws, she or he may face prosecution by the People's procuratorate. No person has the power to override the law, according to the China Communist Party Constitution. The CCP Regulations on Disciplinary Punishments enacted in February 2004 provide that, if any party members block criticism, impeachments or accusations, or detain, destroy or leak related files, they will be given disciplinary punishment. If they retaliate against the one who criticises, impeaches, accuses or witnesses, they will be punished severely.

The CCP is the leading force of China, playing a decisive role in China's struggle against corruption. The CCP CCDI is the core in fighting against corruption. It leads and coordinates the discipline inspection agencies and procuratorates at all levels from the central down to grassroots.

## Executive and Civil Service

The executives are agencies that exercise state power under the leadership of CCP committees at all levels. The NPC elects the president of the state. The State Council is the highest agency of administration, with the premier assuming overall responsibility for the work of the State Council. The premier is nominated by the state president and elected by the NPC. Vice-premiers and ministers are nominated by the premier, and the nomination is submitted to the NPC or its Standing Committee for approval.

In China, there are no clear distinctions between administrative officials and public servants. Starting in 1994, China began to recruit public servants through a national unified examination. Generally, all candidates must pass the examination before they can work for any administrative agency. That has ensured, to a certain extent, that administrative personnel have the necessary knowledge and professional skills. Leading administrative personnel are appointed and promoted by the personnel departments of superior Party organisations and executives after assessment of their performance. The heads of the government at all levels must be approved by the People's congresses or their standing committees at the same level. Administrative personnel work within the framework of laws, regulations and departmental rules and subject themselves to the oversight of administrative supervision departments, the CCP discipline inspection agencies, other supervisory agencies, the people and the media.

Although China has taken normative and severe measures to control the hiring of public officials, there are still some problems in promotion and appointment. In the past, many corruption cases arose in this field because of the lack of transparency and democracy in the procedure. Therefore, China enacted a series of measures and provisions after 2000, including the Outline of a Progressive Reform of Officials and Personnel System, the Regulations on Selecting and Appointing Party and Government Officials, the Interim Regulations on Open Selection of Party and Government Officials and the Interim Provisions on Promotion via Open Competition in the Party and Government Bodies. These measures and provisions are helpful for reducing corruption in personnel.

Since 1949, China has carried out major reforms of governmental organisations on several occasions. By the end of December 2005, there were 28 ministries and commissions, 19 departments directly under the State Council, 6 offices, 14 institutions directly under the State Council and 12 state bureaus administered by ministries or commissions. After the organisational reform, all ministries and commissions that were originally administered by industrial regulatory agencies were gradually dissolved or merged; the newly established executives are mostly supervisory organisations.

Currently, in the State Council, the Ministry of Supervision, the Ministry of Justice and the National Auditing Administration are all closely associated with anti-corruption work. The Ministry of Supervision is responsible for overseeing the enforcement and implementation of laws, decisions and orders by various executives and their working personnel, accepting reports and complaints and carrying out investigations accordingly. The Ministry of Justice is responsible for overseeing and providing guidance to the criminal penalty execution and correctional activities in prisons throughout the country. It is also responsible for disseminating knowledge about law and regulates law firms, notaries public and other law-practicing organisations. It further participates in negotiations on judicial cooperation agreements with foreign countries. The National Auditing Administration is in charge of auditing (1) the execution of the central budget and financial receipts and expenditures, (2) the financial receipts and expenditures of various central departments, institutions directly under the State Council and their subordinate agencies, (3) provincial People's governments' budgets and their execution, (4) the central bank, certain special funds, aid and loans from international organisations and foreign governments and (5) state-owned key and large-scale enterprises and major state construction projects.

Executives submit their annual budget reports to the annual meeting of the People's congresses at various levels at the beginning of the year (usually in March) for deliberation by the People's deputies. Article 14 of the Budget Law, adopted in March 1994, provides that the State Council compiles the drafts of the central budget and final accounts, reports to the NPC on the drafts of central and local budgets and submits for the record to the Standing Committee of the NPC reports on the totalled budgets submitted for the record by the governments of provinces, autonomous regions and municipalities directly under the central government. The budget of the central government includes the budgets of various central departments (including units directly under them). In 2005, the central government budget was about 1,810 billion CNY. But the details of the budget report have not yet been made public. Only a very brief version of the budget report is open to the public. This brief version offers only a broad outline, with limited information available. Due to the impact of the reform of the fiscal and budgetary systems in the 1980s, administrative departments and other organisations covered by central finance have massive non-budgetary and out-of-institution receipts

in addition to the annual budget. This has made budget management not so scientific, leaving loopholes for corruption.

Executives are accountable to the People's congresses at the same level and accept their supervision. Internally, the supervision departments exercise oversight of executives and their functionaries with respect to their carrying out of administration according to the law and keeping themselves free of corruption. The auditing administrations also audit executives' financial receipts and expenditures. Externally, executives are subject to oversight by news media and civil society. In working out public policies that closely affect citizens' lives, executives are required to hear extensively from the common people by such means as public hearings. In the beginning of the 1990s, China began to introduce the practice of opening up administrative affairs, village affairs and factory affairs in an attempt to make the work of the government and related departments more transparent and make external oversight easier. But due to the impact of China's political traditions, there is still room for improvement in the oversight of executives as far as anti-corruption work is concerned.

Administrative personnel must observe the Public Servant Law and other administrative rules and regulations in their work. Administrative personnel must abide by applicable laws and regulations with regard to integrity, such as the Provisional Regulations Concerning Administrative Sanctions against Personnel of Administrative Agencies of State Who Are Corrupt and Practice Bribery (1988), the Code of Conduct of State Public Servants (2002) and the Public Servant Law (2005). If they are CCP members, they must observe the CCP rules of conduct as well. In 1988, the State Council issued the Regulations Forbidding Administrative Agencies and their Personnel to Present or Accept Gifts during Activities Carried out in China in Course of Official Duty. In 1993, it went on to issue the Regulations concerning the Giving and Acceptance of Gifts in the Course of Foreign-related Official Duty. Article 7 of the 1993 regulations provides that if the value of the gift exceeds 200 CNY, within one month after the date of receipt the recipient should fill out a gift report form and submit the gift to the related authority or his working unit. During the course of foreign-related official duty, acceptance of gifts in cash and negotiable securities is prohibited. If such a gift is difficult to refuse, all cash and negotiable securities must be handed over to the state treasury. However, these provisions have not been fully implemented in reality.

In May 1996, the Ministry of Personnel issued the Provisional Regulations Concerning Avoiding Taking Posts and Avoiding Carrying out Public Services by Public Servants, specifying the circumstances and procedures when a public servant should avoid taking posts or carrying out public services. For state functionaries in leading positions, their relatives should avoid taking posts of supervision, auditing, personnel or finance in the same executive entity. If state functionaries, including working personnel of CCP agencies, agencies of the NPC, executives, People's courts, People's procuratorates and state-owned enterprises, commit the crime of corruption, they will be punished in accordance with the provisions of Chapters 8 and 9 of the Criminal Law.

According to the Regulations Concerning the Reporting of Income by Leaders and Cadres of Party and Government Organisations at or Above the County (Department) Level and the Regulations on Reporting Major Personal Matters by Leading Cadres, all leading cadres at and above the county (department) level must regularly declare their income and report major personal matters. But due to the imperfection of China's financial credit system and non-disclosure of the reports and declarations to the public, the systems have not been effective.

Reporting or disclosing is a major democratic right of Chinese citizens protected by the constitution as a way of overseeing government agencies and functionaries. Article 41 of the Constitution of the People's Republic of China provides: 'Citizens of the People's Republic of China have the right to criticise and make suggestions regarding any state agency or functionary. Citizens have the right to make to relevant state agencies complaints and charges against, or exposures of, any state agency or functionary for violation of the law or dereliction of duty; but fabrication or distortion of facts with the intention of libel or false incrimination is prohibited'.

Citizens can also initiate legal action against any administrative agency for its misbehaviour or non-performance of duty according to the Administrative Litigation Law, promulgated in 1989, and the Administrative Reconsideration Law, promulgated in 1999. No administrative personnel are immune from such administrative litigation. When they commit a major mistake or dereliction of duty, they will be dismissed or removed from their posts according to legal procedures. In 2004, the CCP Central Committee issued the Provisional Regulations on Resignation of Leading Party and Government Officials, which specifies under what circumstances they should take the blame on themselves and resign. If a citizen, a corporate person or other organisation suffers due to misbehaviour or non-performance of duty by any administrative agency, the party concerned may claim compensation according to the State Compensation Law.

## Legislature

Article 57 of the Constitution of the People's Republic of China provides: 'The National People's Congress of the People's Republic of China is the highest agency of state power. Its permanent body is the Standing Committee of the National People's Congress.' Article 60 of the Constitution provides that the National People's Congress be elected for a term of five years. Article 58 provides that the National People's Congress and its Standing Committee exercise the legislative power of the state. Generally speaking, the chairmanship of the Standing Committee of the NPC is filled by a member of the Standing Committee of the Political Bureau of the CCP Central Committee in order to ensure Party leadership over the NPC.

The NPC exercises the following functions and powers: amending the Constitution; supervising the enforcement of the provisions of the Constitution; enacting and amending basic statutes concerning criminal offences, civil affairs, state agencies and other matters; electing the president and the vice-president of the People's Republic of China; deciding on the choice of the premier of the State Council upon nomination by the president of the People's Republic of China; deciding on the choice of the vice-premiers, state councillors, ministers, commissioners in charge of various commissions, the auditor-general and the secretary-general of the State Council, upon nomination by the premier; electing the chairman of the Central Military Commission of the CCP and, upon his nomination, choosing the other members of the Central Military Commission; electing the president of the Supreme People's Court and the procurator-general of the Supreme People's Procuratorate; examining and approving the plan for national economic and social development and reports on its implementation; and examining and approving the state budget and the report on its implementation. NPC deputies have veto power over the appointments of the above-listed personnel. But as views are sought extensively before nomination by the organisation departments of the CCP and the personnel departments of the governments, there have been few cases in which nominees are not elected. It has happened a few times only at elections of local People's congresses.

The Law on Deputies of the National People's Congress and Regional People's Congresses provides in Article 15 that the number of deputies in the NPC should not exceed 3,000. The first session of the 10th NPC held in March 2003 was attended by 2,985 deputies.<sup>10</sup> The NPC meets once every year. When it is not in session, the NPC Standing Committee exercises its power. Under the NPC Standing Committee, six sub-committees take charge of nationalities affairs, law, finance and economy, education, science, culture and health, foreign affairs and overseas Chinese affairs. There is no anti-corruption sub-committee.

The NPC holds its plenary session at the beginning of the year (usually in March) to review the government work report and the execution of the state budget. The Standing Committee of the NPC has established a special committee for budget affairs. It also supervises the execution of the budget through the audit offices. Apart from the People's deputies, ordinary citizens do not have the right to participate in the process of compiling the state budget. While the NPC is in session, deputies hear and deliberate on work reports by the State Council, the Supreme People's Procuratorate and the Supreme People's Court. It is in this way that the NPC supervises and encourages anti-corruption work.

People's deputies carry out their work according to the Law on Deputies of the National People's Congress and Regional People's Congresses, the Organisation Law of the National People's Congress and the Organisation Law of Regional People's Congresses and Regional People's Governments at All Levels. People's deputies are free to voice their views and cast their votes at People's congresses. If a People's deputy commits a crime, his qualifications are suspended and corresponding criminal sanctions are imposed only after he has been removed from his office by the standing committee of the local People's congress. At the annual NPC session, the NPC Standing Committee reports on the legislative work accomplished during the past year and deliberates on the draft central government budget submitted by the State Council. At present, there is no direct NPC oversight of non-budgetary funds, which are audited by relevant auditing organisations. While the national and local People's congresses are in session, no non-deputy ordinary citizen is allowed to participate. Since 2000, though, the People's congresses of Guangzhou, Nanjing, Chengdu and Xi'an have begun to allow ordinary citizens to attend meetings of the local People's congress's standing committee.

The main foreign criticism of China's legislature is that the NPC and its standing committee lack full independence and can easily be dominated by the CCP. In the past 20 years or so, China has actively promoted the rule of law. The NPC and its representatives have played more important roles in dealing with state affairs. Its independence has also been enhanced.

People's deputies must abide by the Law on Deputies of National People's Congress and Regional People's Congresses and other laws and regulations applicable to state functionaries. However, there

is no code of conduct to restrict their behaviour in relation to integrity. As they are elected by the people, they are subject to the oversight of the members of their constituencies. At present, due to its limited power, the legislature itself has not seen many cases of corruption among its members.

People's deputies are not required by law to register and declare their assets. Neither is there any law requiring them to make public their relationship with interest groups or record and report their conversations with interest groups or lobbyists. In fact, in China People's deputies represent the interests of certain groups, such as administrators, workers, peasants and ethnic minorities. The law does not prohibit People's deputies from changing their party affiliations during the term of office. But because there is no party competition in the NPC, such a situation is unlikely to arise.

Any person can report to the relevant agencies on the misbehaviour or offences of People's deputies. Generally speaking, however, the arrest or criminal adjudication of People's deputies may not be carried out without the approval of the Presidium of the People's congress (while in session) or the standing committees (while the People's congress is not in session). But when a People's deputy has committed a crime or has participated in corrupt activities, the People's congress and the constituencies that elected him or her may revoke his or her status as a People's deputy and hand him over to the judicial department for adjudication.

## Judiciary

In China, the judiciary includes People's procuratorates (covered under "Law Enforcement Agencies") and People's courts. In addition, the government also has its own judicial administrative departments, such as the Ministry of Justice. The Ministry of Justice is mainly responsible for supervising and directing the execution of criminal penalties and correctional activities in prisons, disseminating legal knowledge and exercising administration over law firms and offices of notaries public and other legal professional organisations and participating in negotiations on judicial cooperation agreements with foreign countries.

The People's courts have a close relationship with the People's procuratorates, discipline inspection agencies, judicial administrative agencies, police and state security agencies. Generally speaking, discipline inspection agencies are responsible for supervision and accepting reports; the police are responsible for investigation; and the People's procuratorates are responsible for investigation, prosecution and handing over cases for trial by the People's courts. Judicial administrative agencies are responsible for the administration of criminals, lawyers and notaries public and other legal practitioners. The following section evaluates the roles of the People's court.

The Constitution of the People's Republic of China provides in Article 123 that the People's courts are the judiciary of the state and in Article 127 that the Supreme People's Court is the highest judicial agency. The Supreme People's Court supervises the administration of justice by the local People's courts at different levels as well as special courts.

The Organisation Law of People's Courts provides in Article 10 that a trial should be heard by a collegiate panel of judges and people's assessors or by judges alone. In Article 12, it provides that in the People's court system the second hearing is final. If the party concerned objects to the judgment or order of the first trial by the local People's court, it may file an appeal with the People's court at the next higher level. The People's procuratorate may also protest against such judgments or orders. Article 13 of the law provides that the death sentence must be submitted to the Supreme People's Court for approval, except if such a sentence is imposed by the Supreme People's Court itself.

The president of a People's court is elected by the People's congress at the same level. The vice-president, chief judge and vice-chief judge of tribunals and their judges are appointed and removed by the standing committee of the People's congress at the same level. The Organisation Law of People's Courts provides the People's congress with the power to remove the president of the People's court at its level. During times when the People's congress is not in session, if the standing committee of the People's congress at that level deems it necessary to remove the People's court president, such removal must be submitted to the People's court at the next higher level and approved by the People's congress standing committee at the next higher level.

The Criminal Law, as amended in 1997, provides that crimes of corruption include graft, misappropriation of public funds, bribery, obtaining large amounts of property from undeclared sources, concealing deposits abroad, distributing state property to private recipients and distributing confiscated articles and goods to private recipients. At present, the prosecution of corruption cases has become one of the focuses of People's courts at all levels. In 2004 alone, People's courts at all levels concluded the trial of 24,184 cases involving graft, bribery, misappropriation of public funds and dereliction of duty.<sup>11</sup>

Local People's courts are divided into grassroots People's courts, intermediate People's courts and high people's courts, at the county, municipal and provincial levels respectively. The grassroots People's court may set up criminal tribunals, civil tribunals and economic tribunals. Corruption cases are handled mainly by criminal tribunals.

At present, there are about 80 judges in the Supreme People's Court. The overhead expenses of the People's courts are included in the local government's budget, which is examined and approved by the People's congresses at each level. The People's Judge Law, promulgated in February 1995, has detailed provisions on the responsibilities, rights and obligations, appointment and removal, posts to be avoided, grades, assessment, training, reward and discipline of judges. Judges are required to meet certain political and professional standards and be of good moral character.

In October 2001, the Supreme People's Court, the Supreme People's Procuratorate and the Ministry of Justice issued the Implementing Measures for State Judicial Examinations (for Trial Implementation). As of 1 January 2002, candidates applying for posts as judges for the first time have to pass a national judicial examination that tests their legal knowledge and professional skills. Before and during their terms of office, judges must receive training corresponding to their position. In 1988, China set up a high-level training centre for judges, and in 1997 it was reformed as the State Judges' College. The College undertakes the qualification training of presidents and vice-presidents of high and intermediate People's courts, the on-going training of senior judges of all courts at various levels, promotion training for all judges to be promoted to senior judges and pre-job training for candidates applying for the post of judge. By the end of April 2002, the college had trained 5,599 people.

In order to ensure the independence of the administration of justice, the Constitution of the People's Republic of China provides in Article 126 that the People's courts shall, in accordance with the law, exercise judicial power independently and are not subject to interference by the executive, social organisations or individuals. However, starting in the 1980s, the ruling party and government agencies frequently intervened in the exercise of judicial powers. Because their personnel and budget are controlled by local governments, the workings of the judiciary have often suffered intervention. This has caused the localisation of judicial power, which has seriously destroyed the equity and justice of the judiciary. To date, the People's courts are gradually becoming more independent.

In exercising judicial power, judges must strictly abide by the Criminal Procedure Law. The People's courts are required to report their work to the People's congresses at the same level and accept their deliberation and evaluation. If the People's congress is not satisfied with and therefore does not vote to pass the report of the People's court or procuratorate, it can order the People's court or procuratorate concerned to correct and submit a new report. Due to a series of corruption cases involving the mayor, executive vice-mayor, chief procurator and vice-president of the People's court, Shenyang City's 12th People's Congress at its 4th session on 4 February 2001 did not pass the report by the vice-president of the Intermediate People's Court for the year of 2000. According to the Shenyang People's Congress, this was the first time any People's congress in China had refused to accept reports by People's courts. There were 508 deputies in total in Shenyang People's Congress. Of the 474 deputies present at the session, 218 voted yes, 162 voted no and 91 abstained. The positive votes did not exceed half of the total number of votes. The report by the city's People's Procuratorate only passed with a slim majority of votes: 270.<sup>12</sup>

Relevant regulations applicable to public servants apply to judges by analogy with respect to declaring property holdings, reporting major personal matters, avoiding conflicts of interest, accepting gifts and invitations to banquets and taking up posts after retirement. In addition, the People's Judge Law provides that judges who are linked by a husband-wife relationship or who are directly related by blood, collaterally related within three generations or closely related by marriage may not, at the same time, hold posts as the president, vice-presidents, members of the judicial committee, chief judges or associate chief judges of divisions in the same People's Court; the president, vice-presidents, judges or assistant judges in the same People's Court; the chief judge, associate chief judges, judges or assistant judges in the same division; or presidents or vice-presidents of the People's Courts at the levels next to each other.

The People's court introduces the People's juror system. Citizens above the age of 23 who have the right to vote and to be elected may be elected as People's jurors; those who have ever been deprived of their political rights are not eligible. While performing their duties at the People's court, the People's jurors enjoy the same rights as the other judges in the penal system. People's courts are required to conduct trials openly, except in special circumstances as provided by law. Defendants have the right to defend themselves.

Any person may report cases involving judges who abuse their power for personal gains to the People's procuratorates. Since 2002, presidents of three provincial High People's Courts have been sentenced to imprisonment for corruption.

Judges must state fully the grounds for their rulings in their opinions. If the parties concerned are not satisfied with the rulings, they may appeal to the higher court. The Chinese judiciary has also set up a system of asking for instruction and reporting, which requires all major cases to be reported to the judicial committee of the court. This system has, to certain extent, reduced the number of mistakenly adjudicated cases and the opportunities for judges to abuse their powers for personal gains. However, it has, to a certain extent, also affected independent exercise of judicial power by judges, making the appeal procedure less meaningful.

## Law Enforcement Agencies

Law enforcement agencies mainly include the Ministry of Public Security and the Ministry of State Security. The People's procuratorates will be discussed here as well. In addition, as the ruling party, the CCP also has a functional department called the political and legal committee, which is responsible for coordinating the work of the judiciary and the law-enforcement agencies, including work of the people's courts, the people's procuratorates, the Ministry of Public Security, the Ministry of State Security and the Ministry of Justice. The Ministry of Public Security and the Ministry of State Security are mainly responsible for investigating crimes and the People's procuratorates are responsible for crime investigation and prosecution. In China, crimes related to corruption are mainly investigated by the people's procuratorates, while those relating to enterprises are usually investigated by the public security agencies.

Police in China include the public security agencies, state security agencies, prisons, police at rehabilitation-through-labour administration agencies and judicial police at People's courts and People's procuratorates. The People's Police Law promulgated in February 1995 provides in its Article 6 that one of the functions of the people's police in the public security agencies is to prevent, deter and investigate crimes. Public security agencies are part of the functional departments of the executive; their heads are nominated by the heads of the corresponding executives (premier at the state level and administrative leaders at the local level) and approved by the standing committee of People's congresses at the same level. Chief officers of public security agencies are required to possess legal knowledge and have certain organising and commanding capabilities.

The Constitution of the People's Republic of China provides in Article 129 that the People's procuratorates are the state's agencies for legal supervision. The Supreme People's Procuratorate is the supreme legal supervision agency, directing the work of local People's procuratorates and military procuratorates. The local People's procuratorates are found at the county, municipal and provincial levels. The military procuratorates are only responsible for prosecution of members of the armed forces. The Organisation Law of the People's Procuratorate provides that if the People's procuratorate finds and confirms that a criminal act has been committed, it shall file the case for investigation in accordance with the procedure provided by law or transfer the case to the public security agency for investigation. The People's procuratorate shall prosecute before the People's court if, upon conclusion of the investigation, it deems it necessary to impose criminal responsibility on the suspect; otherwise it will withdraw the case. The arrest of any citizen, unless determined by the People's court, must be approved by the People's procuratorate. In cases prosecuted by the People's procuratorate, the chief procurator or another procurator shall attend the court hearing in the capacity of state prosecutor to support the prosecution and supervise that the court proceedings conform with the law.

The chief procurator is elected by the People's congress at the same level, and deputy chief procurators and members of the procuratorate committee are appointed and removed by the standing committee of the People's congress at the same level. The Organisation Law of the People's Procuratorate provides that appointment and removal of the chief procurator of the People's procuratorate shall be reported to the chief procurator of the people's procuratorate at the next higher level, who shall then apply for approval by the standing committee of the People's congress at the same level with the former procuratorate. Accordingly, the appointment and removal of the chief procurator of a provincial People's procuratorate shall be reported to the chief procurator of the Supreme People's Procuratorate, who shall apply for approval by the standing committee of the NPC.

Today, investigation of corruption cases has become a focus of the work of People's procuratorates at all levels. In 2004 alone, local People's procuratorates put 43,757 government functionaries on file for investigation and prosecuted 30,788 for graft, accepting bribes, misappropriating public funds and dereliction of duty.<sup>13</sup>

In China, reports from the people are the main sources of clues to criminal cases. Statistics show that, of all the corruption cases uncovered since 1980, more than 90 per cent were exposed by reports from the people.<sup>14</sup> In order to facilitate tips, related departments have set up special organisations to accept such reports. On 4 September 1996, the Supreme People's Procuratorate issued the Regulations Concerning Protection of Right of Citizens to Report and set up a reporting centre, which receives reports of corruption through websites, telephone calls and visits. At present, more than 3,600 People's procuratorates have set up such centres, forming a nationwide reporting network.<sup>15</sup> The CCP discipline inspection agencies, administrative supervision agencies and some government departments also have reporting and petitioning centres. These organisations have their respective tasks but also cooperate with one another, collectively constituting a complete reporting system. In order to raise these report-receiving agencies' accountability, China specifies their responsibilities and obligations to reply to informants. During a dissemination week on reporting in June 2000, the People's procuratorates in the whole country committed to respond to every named informant. In April 2001, the Supreme People's Procuratorate issued a circular demanding timely reply to named informants. On 28 December 2005 the Reporting and Petitioning Centre of the CCP CCDI and the Reporting Centre of the Ministry of Supervision opened their special website ([www.jubao.gov.cn](http://www.jubao.gov.cn)) to receive reports.

China pays great attention to protecting informants. The Criminal Procedure Law provides that the public security agencies, the People's procuratorates and the People's courts shall ensure the safety of reporters, complainants and informants as well as of their near relatives. If the reporters, complainants or informants do not wish to make their names and acts of reporting, complaining or informing known to the public, these shall be kept confidential. The Criminal Law specifies punishments of working personnel of state agencies who abuse their authority by retaliating against or framing accusers, petitioners, criticsers or informants in the name of conducting official business. Moreover, the Supreme People's Procuratorate in 1991 issued Regulations on Protection of the Right of Citizens to Report, and the CCP CCDI and the Ministry of Supervision in January 1996 issued Regulations on Protecting Informants and Accusers, both of which have detailed provisions on protection of informants. In order to further lower risks for informants, certain report-receiving organisations are exploring more advanced means, such as network reporting and encrypted reporting, to protect informants. In addition, the Supreme People's Procuratorate has issued regulations on rewarding individuals or units that have made meritorious reports in accordance with their contributions. The greater the contribution, the larger the prize will be. There are two types of material reward: public reward and confidential reward, depending on the wish of the informant. Without the consent of the informant, his name and employer may not be made public.

In order to strengthen reporting, investigation and prevention of corruption, the Guangdong Provincial People's Procuratorate set up China's first anti-corruption bureau on 18 August 1989. On 10 November 1995, the Supreme People's Procuratorate renamed its graft and bribery office as the General Anti-corruption and Bribery Bureau, to direct works of anti-corruption bureaus at all levels. In August 2000, the Supreme People's Procuratorate set up an office for prevention of occupation-related crimes, which is responsible for preventing graft, bribery, dereliction of duty and other occupation-related crimes.

The outlays of the public security agencies and the People's procuratorates are included in the budget of the government at the same level and approved by the corresponding People's congresses. The People's Police Law and the People's Procurator Law, both enacted in February 1995, have detailed provisions on the functions, rights and obligations, appointment and removal, posts that cannot be held simultaneously, ranks, assessment, training, reward and sanction of policemen and procurators. Procurators are required to have good political and professional backgrounds and sound ethical conduct. In October 2001, the Supreme People's Court, the Supreme People's Procuratorate and the Ministry of Justice promulgated the Implementing Measures for State Judicial Examinations (for Trial Implementation), which stipulate that beginning 1 January 2002, candidates taking the post of procurator for the first time must pass the national judicial examination to test their professional knowledge and skills. Before and after taking up the posts as judge or procurator, they must receive the appropriate training.

The Constitution of the People's Republic of China provides in its Article 131 that the People's procuratorates shall, in accordance with the law, exercise procuratorial power independently and are not subject to interference by executives, public organisations or individuals. Article 42 of the People's Police Law provides that in performing their duties, People's police must accept according to law the oversight by the People's procuratorates and administrative supervision agencies. In performing their duties, police and procurators must abide by the provisions of the Public Servant Law, the People's Police Law and the People's Procurator Law and other laws and regulations concerning public servants. Every year, the People's procuratorates must report their work to the People's

congresses at the same level and accept their deliberations and evaluation. The public security agencies, as functional departments of the executives, are accountable to the head of the government.

Rules and regulations concerning public servants' property and income declaration, reporting of major personal matters, conflicts of interest, acceptance of gifts and attending banquets and taking up posts after retirement are also applicable to the People's police and procurators. The People's Police Law provides, in its Article 45, that in handling cases, a police officer shall avoid participation if he is found to be a party or a close relative of a party in the case; to have an interest for himself or close relatives in the case; or to have another relationship with a party in the case that may affect impartiality in the handling of the case. Article 18 of the People's Procurator Law stipulates that public procurators who are connected by a husband-wife relationship or who are directly related by blood, collaterally related within three generations or closely related by marriage may not, at the same time, hold the following posts: chief procurator, deputy chief procurators or members of the procuratorial committee in the same People's procuratorate; chief procurator, deputy chief procurators, procurators or assistant procurators in the same People's procuratorate; procurators or assistant procurators in the same division; or chief procurators or deputy chief procurators of the People's procuratorates at the levels next to each other.

If any working personnel within the law-enforcement agencies abuse their power for personal interest, anyone may report them to the People's procuratorates. Over the past few years, corruption cases in the judicial and law-enforcement agencies have become the focus of investigation and punishment. Since 1999, one vice-minister of the Ministry of Public Security, one provincial chief procurator and two provincial deputy-chief procurators have been prosecuted for the crime of corruption.

The public security agencies and People's procuratorates have a close relationship with the CCP discipline inspection agencies, the judicial administrative agencies and the People's courts, each responsible for its own area of work. In order to provide better leadership and coordinate their work, the CCP has set up political and legal committees at the central level and various local political and legal committees at and above the county level. The head of the political and legal committee is usually also the deputy CCP secretary or member of the standing committee of the CCP committee at the same level. Members of the political and legal committee include chiefs of the People's procuratorates, the People's courts, the public security agencies, the judicial administrative departments and the supervision departments. The commission coordinates and supervises the handling of major cases.

## Anti-corruption Agencies

In China, although many departments have close relations with anti-corruption work, the administrative anti-corruption agencies primarily comprise the CCP CCDI and the supervision department of the government. Because the CCP, as the ruling party, leads, plans and coordinates the affairs of state, the heads of an overwhelming majority of state agencies are also CCP members. Thus, the CCP CCDI plays a core role in China's national integrity system.

In 1988, the CCP CCDI and the Supreme People's Procuratorate jointly decided that the CCP CCDI and the Ministry of Supervision should establish a system for maintaining close ties and for handing over cases. In 1993, the CCP CCDI, the Supreme People's Procuratorate and the Ministry of Supervision issued a circular on strengthening cooperation between discipline inspection agencies and supervision departments in the anti-corruption struggle, formulating detailed and specific provisions on cooperation and officially setting up a joint regular meeting of the CCP CCDI, the Supreme People's Procuratorate and the Ministry of Supervision. In 1989, the CCP CCDI, the Supreme People's Court, the Supreme People's Procuratorate and the Ministry of Public Security issued a joint circular on mutual supply of relevant materials in investigating and handing cases. In the same year, the Ministry of Supervision and the Ministry of Public Security issued a joint circular on cooperation between supervision agencies and public security departments in handling cases. All these have helped build a good relationship among different departments, which have a clear division of tasks and at the same time cooperate with one another. While keeping their status as two different agencies, since 1993 the CCP CCDI and the Ministry of Supervision have united their work by sharing the same staff so as to promote cooperation, increase work efficiency and streamline their structures and personnel.<sup>16</sup>

The constitution of the CCP provides, in Article 44, that one of the main tasks of the CCP CCDI at all levels is to assist the respective CCP committees in improving the Party's ethos, to check up on and handle relatively important or complicated cases concerning violation of the CCP constitution and other party rules by CCP members or CCP organisations and to determine or cancel disciplinary

sanctions on relevant CCP members involved in those cases. The Administrative Supervision Law promulgated in 1997 provides, in Article 2, that the supervision agency is an agency of the government to oversee executives, state public servants and other personnel appointed by executives. In balance, the role of the CCP CCDI and administrative supervision sectors is to formulate strategy, pass acts, supervise, receive reports, make primary inquiries and determine intra-party punishments.

The CCP CCDI is elected by the National Congress of the CCP. In 2002, the 16th CCP National Congress elected 121 members. The CCDI operates under the leadership of the CCP Central Committee, with a term of five years. This has ensured the relative independence of the CCDI, free from interference from other departments and local CCP and executives. The Ministry of Supervision is one of the functional departments of the State Council. Its minister is nominated by the premier and approved by the NPC or its standing committee. The CCP's discipline inspection agencies and the administrative inspection agencies' budget, as part of the budget of the government at the same level, is deliberated on and approved by the People's congresses at the same level.

The CCP CCDI and the Ministry of Supervision both have counterparts at the provincial, municipal and county levels. Article 43 of the constitution of the CCP provides that the party's commissions for discipline inspection at various levels function under the dual leadership of both the CCP's committees at the same level and the discipline inspection committees at the next higher level. The Administrative Supervision Law provides, in its Article 7, that the supervision departments of the People's government at and above the county level are responsible for supervision within their administrative areas and are accountable and report to both the government at the same level and the supervision agency at the next higher level. In addition, the CCP CCDI and the Ministry of Supervision have dispatched agencies, directly under the State Council, in various other departments. The appointment, removal and management of the personnel in these agencies is the responsibility of the CCP CCDI or the Ministry of Supervision.

The Internal Supervision Regulations of the CCP provide in Article 9 that the CCP's discipline inspection committees at all levels undertake the responsibility of oversight within the party, including oversight of the party committees to which they belong, dispatched organisations, inspecting agencies and their leaders. The Administrative Supervision Law has detailed provisions on the functions, powers, supervision procedures and legal responsibilities of supervision agencies. At the beginning of 2003, the CCP Central Committee and the State Council approved the establishment of the inspection office and inspection groups of the CCP CCDI and the organisational department of the CCP Central Committee, appointing 45 inspectors, who have carried out inspections in 31 provinces, regions and cities, with an emphasis on the oversight of provincial level leaders.

In order to ward off interference by central departments and local party and government agencies, China has adopted a series of institutional measures. In 2003, the CCP Central Committee issued regulations instructing that the posts of secretaries of all local party discipline inspection committees must be filled by deputy secretaries of local party committees, thus raising the status of discipline inspection agencies within the party. At the beginning of 2004, the CCP Central Committee decided that the CCP CCDI and the Ministry of Supervision should exercise unified management of their dispatched organisations, changing the dual leadership by both the CCP CCDI and the Ministry of Supervision and the agencies in which they are dispatched into direct leadership by the CCP CCDI and the Ministry of Supervision. Under the current political system of China, vertical leadership, which makes discipline inspection agencies directly accountable to the CCP CCDI, is a relatively effective way to curtail corruption.

The Administrative Supervision Law promulgated in May 1997 provides in Article 3 that supervision agencies shall exercise their powers according to law, free from interference by any administrative department, social group or individuals. Article 7 further stipulates that supervision of the supervision agencies shall be mainly led by their counterparts at the next higher level. This has, from a legal point of view, ensured the independence of administrative supervision departments. Article 11 provides that appointment or removal of leaders and deputy leaders of the supervision agencies of local government at or above county level must be agreed on by the supervision agencies at the next higher level.

The working personnel of the CCP's discipline inspection agencies and the administrative supervision departments must have a relatively high ethical standard and certain professional knowledge and skills, especially disciplinary and legal knowledge. They are not immune from punishment if they are convicted of corrupt deeds. Besides relevant rules applicable to public servants, they must also abide by the constitution of the CCP, the Regulations on Intra-Party Supervision (for Trial Implementation), the CCP Regulations on Disciplinary Punishments and the Administrative Supervision Law.

Citizens and party members may report to the CCP's discipline inspection agencies and the administrative supervision departments any misbehaviour of any Party or government agencies and their personnel. The CCP's discipline inspection agencies and the administrative supervision departments all have special organs to accept reporting by citizens and party members. The CCP Central Committee in October 2004 revised the 1995 Regulations for Protection of the Rights of CCP Members, and the government also amended the Regulations on Receiving Complaint Letters and Visits from the People. All these regulations have strengthened the protection of informants.

In China's integrity system, the anti-corruption agencies, including the CCP's discipline inspection agencies and the administrative supervision departments, have played the role of overseeing state functionaries, receiving tips, carrying out investigations and coordinating and organising anti-corruption activities. After receiving reports or discovering corrupt suspects, they carry out initial investigations, and if criminal clues are found, they hand the cases over to the procuratorates for further investigation. In the course of investigations, the audit and public security departments also play their professional roles.

## Supreme Audit Institution

The Audit Office of the People's Republic of China was officially set up on 15 September 1983 under Article 91 of the Constitution of the People's Republic of China adopted at the Fourth Session of the Fifth NPC on 4 December 1982. Article 91 of the constitution provides that the State Council establish an auditing body to supervise through auditing the revenue and expenditure of all departments under the State Council, local governments at different levels and the state's financial organisations, enterprises and institutions. The Audit Office is one of the 29 agencies that constitute the State Council. Under the direction of the premier, it is in charge of auditing work throughout the country.

The auditor-general is the administrative head of the State Audit Office and also a member of the State Council. Candidates for the post are nominated by the premier and approved by the NPC Standing Committee. The working personnel of the Audit Office are required to have adequate professional knowledge and skills. The Audit Law provides that heads of audit offices at all levels be appointed and removed according to the prescribed legal procedure and that they will not only be replaced at will if they commit dereliction of duty or fail to live up to their qualifications. No organisation or individual is allowed to refuse access to or obstruct auditors from performing their duty or retaliate against them. The audit offices audit the implementation of budgets and the management and use of extra-budgetary funds of all government departments at the same level and subordinate government departments; the receipts and expenditure of the state's institutions and part of the state-owned enterprises; the assets, liabilities and loss and gain of state-owned financial institutions; and the implementation of budgets of state construction projects and the receipts and expenditure of social security funds, social donations and other related funds that are managed by government departments or social groups entrusted by the government. As the workload is huge, the audit office carries out audits only at selected units each year.

Local governments at and above county level are in charge of setting up audit offices. Local audit offices exercise audit power independently, accountable to the People's governments at the same level and the audit offices at the next higher level. The Constitution of the People's Republic of China provides in Article 91 that under the direction of the premier of the State Council, the auditing body independently exercises its power to supervise in accordance with the law, free from interference by any other administrative agency or any public organisation or individual. This ensures the independence of audit offices. The budget of an audit body is listed in the budget of the government at the same level. The budget should be submitted to the standing committee of the People's congress at the same level for approval. Generally speaking, the State Audit Office does not provide outlays to local audit offices because it does not have its own extra-budgetary funds.

Because its establishment was rather recent and its status is not very high, China's audit institution has not acted fully as the watchdog of state assets and expenditure. However, its role in China's national integrity system is becoming more and more important, especially as the coverage of auditing is expanding and the degree of disclosure has been enhanced.

The audit offices carry out their works under the Audit Law. The State Audit Office carries out regular audits of the implementation of the budgets and financial affairs of units supported by central financing and, entrusted by the State Council, reports its work to the NPC Standing Committee (usually in June every year).

The Audit Law does not specify whether the audit report should be made public. However the annual audit report has been made public gradually since 1998. By 2003, the Audit Office began to publish the full text of its report as soon as it was made. More and more local audit offices have begun to

follow this practice as well. By 2008, the State Audit Office will make the audit report entirely public.<sup>17</sup> All public expenditures of the audited departments are subject to audit.

On 28 June 2005, in his auditing report for the year 2004 to the NPC Standing Committee, Auditor-General Li Jinhua exposed a large number of problems involving party and government agencies' violations of financial discipline. The departments exposed included 38 central departments, with the money involved reaching 9.06 billion CNY. By the end of March 2005, the 2004 audit had recovered economic losses running up to 288 million CNY and 762 people had received disciplinary punishments or were handed over to the judiciary.<sup>18</sup> These actions won nationwide acclaim.

Auditors are required to abide by the Audit Law, in addition to the rules and regulations applicable to public servants and working personnel at Party and government agencies. In handling audit matters, auditors who have interests with units subject to auditing or auditing matters are required to withdraw.

The audit offices pay great attention to information provided by the people and have set up a centre for receiving such reports. During its auditing and investigation of major state construction projects, such as central hydraulic construction projects and parts of other key hydraulic construction projects, the audit office issues a notice encouraging citizens to provide clues to corruption.

Audit offices, as functional departments of the government, operate under the leadership of the governments at the same level. They have very high professional capacity. They are the watchdog within the government, overseeing the use of all public funds. Their audit results may provide major evidence for the CCP's discipline inspection agencies and the administrative supervision department to investigate and handle corruption cases.

## Public Procurement

Public procurement is an area where corruption occurs easily, including in China. It has become a major focus of China's anti-corruption efforts in recent years. In 1999 and 2002, China enacted the Tender and Bidding Law and the Government Procurement Law respectively, built a tangible construction market and introduced a blacklist system. These have laid the foundation for reducing the incidence of corruption in government procurement.

Public procurement is typically an area where public and private interests conflict. On one side, government departments act as the procuring entity (also including part of the private sector), and on the other side private-sector entities act as suppliers. Public procurement is an important component of government expenditure. Therefore, the public procurement process is subject to oversight by both audit offices and People's congresses, in order to make the process and result fair, just, open and transparent.

The Government Procurement Law sets the standards for public procurement. It stipulates that public bidding should be the main form of government procurement. Other applicable forms include tender, competitive negotiation, unitary source procurement, price inquiry and other forms approved by the government procurement supervisory and administrative department under the State Council. The law defines circumstances under which each form can be employed; apart from these defined circumstances, public bidding must be adopted. The law also specifies in detail the parties to government procurement, methods and procedures of procurement, evaluation standards and forms of contract in order to ensure the fairness and objectivity of the process. However, no specific rules apply for revising contracts already awarded or in the process of performance. In the process of actual execution of the contract, oftentimes the bid winner delays the commencement of operations and the party inviting tenders must make an additional investment.

The Tender and Bidding Law has specified the procedure thereof. It provides that bids must be invited for the following construction projects undertaken in the People's Republic of China, including surveying for, and design of, construction and supervision of the projects, as well as the procurement of important equipment, materials and the like, for construction: (1) projects with a bearing upon the public interest and public safety, such as large-scale infrastructure projects, public utility projects and so on; (2) projects that are entirely or partially funded by the investment of state-owned funds or financed by the state; (3) projects using loans from international organisations or foreign governments, or aid funds. Article 4 provides that no unit or individual is allowed to divide a project that legally requires bidding into several small parts or otherwise avoid bidding.

The law also provides that the time and place for opening bids should be set in advance and be attended by all bidders. Bid evaluation shall be the responsibility of a bid evaluation committee organised according to law by the bidder. The bid evaluation committee shall be composed of the representative of the bid-inviting party and relevant experts in technology, economics and so on. The

number of committee members shall be an odd number of five or more, and the number of experts in technology and economics and the like shall account for at least two-thirds of the total. The experts must have worked in their relevant fields for at least eight years and have a senior title or have attained an equivalent professional level. They shall be selected by the bid-inviting party from the list of experts provided by the central government or the relevant authority of the People's government of the province, autonomous region or municipality directly under the central government or from the list of experts in the relevant fields forming part of the bidding agency's pool of experts. For ordinary projects, the experts may be selected at random; for special projects, they may be determined directly by the bid-inviting party. Persons with a material interest in the bid-inviting party may not sit on the bid evaluation committee for the relevant project. The list of members of the bid evaluation committee shall be kept confidential until the winning bidder has been determined. The bid-inviting party shall take the steps necessary to ensure that strict confidentiality is maintained during the evaluation of the bids. No unit or individual may legally intervene in or influence the course and/or result of the bid evaluation. In addition, the law has provisions concerning the procedure and standards for bid evaluation.

Although these two laws have prescribed detailed rules about the procedure for public procurement and bidding, they have met problems in implementation. Circumventions of this procedure have occurred time and again. This has become a field where corruption arises most frequently in China at present.

Starting in 1996, certain areas in China began to develop the public procurement system. Over the past 10 years, the scale of public procurement has expanded steadily, from nearly 1 billion CNY in late 1990s to 65.3 billion CNY in 2001, up to 100.9 billion CNY in 2002 and 165.9 billion CNY in 2003.<sup>19</sup> According to the '2006 Government Procurement Work Highlights', issued by the Ministry of Finance in early February 2006, the scale of public procurement in 2006 will reach 300 billion CNY.<sup>20</sup> Project procurement has also risen steadily as a proportion of total procurement in China, reaching 39.3 per cent in 2003. So has public bidding as a proportion of all procurement, reaching 57.23 percent in 2003. Thus, public bidding's position as the leading method of public procurement has basically been established.

In 2005, the proportion of public procurement in GDP was about 2 per cent. Although very small as compared with western developed countries, the percentage is likely to increase rapidly with the deepening of China's level of marketisation. This will likely lead to the public bidding procedure becoming more standard. With the development of the non-publicly owned economy, competition in the public procurement market is also increasing.

The Government Procurement Law provides in Article 13 that financial departments of People's governments at various levels shall oversee and administer government procurement activities according to law. Government procurement is conducted either by centralised procurement or decentralised procurement. The catalogue for centralised procurement is fixed by the People's governments at and above the provincial level. The law provides in Article 8 that for government procurement items covered by the central budget the centralised procurement catalogue shall be determined and published by the State Council, and the catalogue of procurement items covered by local budgets shall be decided and published by provincial, autonomous regional and municipal governments or organisations authorised by them. The procurement items incorporated into such catalogues should be carried out by centralised procurement.

In recent years, China has made positive progress in applying modern information technology to promote on-line public procurement. At the end of December 2000, the Ministry of Finance created the China Government Procurement Network ([www.ccg.gov.cn](http://www.ccg.gov.cn)), which is authorised to publish government procurement information. Local governments have similar websites. This has, to a considerable extent, promoted the openness, fairness and justice of the public procurement process.

Public procurement departments are required to issue procurement plans, bidding announcements and bidding results regularly. Audit offices at all levels carry out audits of the use of the government budget in public procurement and report the results to the People's congresses at the same level. Administrative supervision departments also oversee bid-inviting departments.

The Government Procurement Law and the Tender and Bidding Law do not stipulate special qualification requirements for procurement and bidding personnel. They only impose restrictions on their conduct in the process of procurement and bidding. The Government Procurement Law has only general requirements that procurement personnel in departments carrying out centralised procurement should have corresponding professional qualifications and skills and should meet professional qualification requirements prescribed by the government procurement supervisory and administrative department. Article 61 of the law provides that the functions and powers of procurement personnel and those of personnel responsible for examination and approval of

procurement contracts and inspection and acceptance of procured goods shall be expressly defined and separated.

Chapter 5 of the Government Procurement Law stipulates legal responsibilities in the course of public procurement. Administrative punishments and economic sanctions will be imposed if procurement personnel adopt a different method without authorisation when public bidding should be carried out, raise procurement standards without authorisation, entrust an agency that does not meet the relevant qualifications to handle government procurement activities, apply differential or discriminative treatment to suppliers by imposing unreasonable conditions or engage in consultation or negotiation with bidders during the course of bidding. If procurement personnel and procurement agents maliciously collaborate with suppliers or procurement agents, accept bribes or obtain other unjust interests and reveal the reserve price before the opening of the bid, or if they provide false information when relevant departments supervise and examine the procurement according to law, they are subject to criminal prosecution, and the bidding results are cancelled. If suppliers provide falsified materials in an attempt to win the bid and conclude the transaction; adopt illicit means to defame and squeeze out other suppliers; maliciously collaborate with the procurement personnel, other suppliers or procurement agents; offer bribes or other illicit interests to procurement personnel or procurement agents; negotiate with procurement personnel during the course of bidding; refuse oversight and examination by relevant departments; or provide false information, they are subject to economic sanctions and possibly criminal prosecution. The bidding results will be cancelled. Moreover, such suppliers will be included in a blacklist and be banned from any government procurement for one to three years.

Transparency of public procurement is usually the most important factor in determining its fairness and justice. The Government Procurement Law provides in Article 11 that information on government procurement shall be released in a timely manner to the public in the medium designated by the government supervisory and administrative department in charge of government procurement, except information involving commercial secrets. Article 26 provides that public bidding should be the main form of government procurement, and Article 63 stipulates that procurement standards for government procurement items should be made public and the procuring department shall, after completion of procurement activities, announce the result to the public. All these, to a certain extent, ensure openness and transparency in the course of public procurement.

In September 2004, the Ministry of Finance issued Measures for the Administration of the Announcement of Government Procurement Information, laying down detailed rules on the disclosure and transparency of government procurement. The measures provide in Article 8 that the following government procurement information must be announced unless it involves state secrets or commercial secrets of suppliers or falls under confidentiality provisions of relevant laws and administrative regulations: (1) relevant laws, rules, regulations and other regulatory documents governing the government procurement; (2) the centralised procurement lists, government procurement quotas and bid quotas as announced by the People's governments at provincial level or above; (3) the directory of the agencies undertaking the bid business of government procurement; (4) the bidding and tendering information, including the announcements of public bid, announcements of preliminary examination of bidders' qualifications, bid award announcements, transaction results and corrected items; (5) the contact information of the finance departments to accept government procurement complaints and the decisions to address complaints; (6) the evaluation results concluded by the finance departments above the centralised procurement departments; (7) the list of names of procurement agencies and suppliers with records of misconduct and (8) other government procurement information that is announced in accordance with the laws, rules and regulations. The measures also stipulate the contents and administration method to be used in announcements of public bidding, announcements of preliminary examination of bidders' qualifications, bid-award announcements, procurement information correction announcements, lists of procurement agencies and lists of suppliers who engaged in misbehaviour.

The Government Procurement Law and the Tender and Bidding Law establish a complaint system. The Government Procurement Law provides that if a supplier has doubts about government procurement activities or thinks that its interests are harmed by the procurement document, the procurement process or the bidding result, it may question the procurement department, file complaints with the procurement supervisory and administration department of the government at the same level, apply for administrative reconsideration in accordance with the law or file administrative litigation with the People's court. The law clearly specifies a time limit for the procurement department and the procurement supervisory and administration department to reply. During the period when complaints are handled, depending on the specific circumstances, the procurement supervisory and administration department may notify the procurement department in writing to suspend procurement activities for a period of less than 30 days.

## Media

Article 35 of the Constitution of the People's Republic of China provides that Chinese citizens enjoy freedom of speech and of the press. However, due to lack of specific legal provisions, China has not done enough with respect to the disclosure and freedom of information. In July 2005, the Regulations on Opening Government Information, in draft form since 1999, were submitted to the Legislative Affairs Office of the State Council for deliberation. The promulgation of the regulations will give an impetus to efforts to make government information open and free and pave the way for passing more laws in this regard.

In China, all media must abide by relevant laws and are subject to the authority of the State Administration of Radio, Film and Television (SARFT), the General Administration of Press and Publication (GAPP) and the News Office of the State Council. Radio and TV stations and publishers of newspapers, periodicals, books, audio-video products and electronic publications must abide by the Regulations on Administration of Radio and Television and the Regulations for the Administration of Publishing, both effective in February 1997, and the Regulations for the Administration of Internet News Information Services promulgated in September 2005. These regulations prohibit broadcasting and publishing content that is harmful to the unification of the country; sovereign and territorial integrity; state security, reputation and interests; or that instigate national divisions, sabotage national unity, leak state secrets, slander and insult others, spread pornography or superstitious information or promote violence. The radio, TV, publishing and news administration departments at the central and local levels are responsible for examination and oversight of these media. The CCP's central and local publicity departments control the general orientation of public opinion.

Under the planned economy, Chinese media were appendages to the government, acting as the voice of the ruling party and government. With the gradual establishment of the market economy, especially the rapid development of telecom technologies, a new media force has arisen, represented by some network media. Meanwhile, traditional media are gradually becoming detached and independent from the government. Some media, such as the Focus Talk Show of CCTV and South China Weekend, are noted for their in-depth reporting that reveals the truth of major events for the sake of protecting the People's interests. These media have won widespread applause. Many media carry a show called Exposure Platform to receive clues provided by the People into misbehaviour involving public service departments. The increasingly strengthened monitoring by the media has helped improve the accountability of government and functionaries. Over the past 10-plus years, corruption scandals and anti-corruption efforts have become the focus of reporting by various media. Scandals revealed by the media have provided important clues for anti-corruption agencies' investigation.

At present, Chinese media are developing rapidly. In radio and TV broadcasting apart from the China Central Television Station (CCTV), there have appeared a host of important and influential local TV stations, such as Hunan TV Station, Shanghai Oriental TV Station and Phoenix TV station. The newspaper and periodical market is highly diverse, with a large number of newspapers specialising in news, finance, entertainment, sports or daily life to satisfy tastes of different types of readers. The most popular publications include *China Newsweek*, *Finance and Economy*, *Outlook Weekly*, *Oriental*, *South China Window* and *21st Century Economic Report*.

By the end of 2002, there were 2,137 titles of newspapers, with a total print of 36.8 billion copies, of which more than 20 have a circulation exceeding 1 million. The number of magazines totalled 9,029 titles, with a total print of 2.95 billion copies, of which 18 have a circulation exceeding 1 million copies. By the end of June 2003, the number of subscribers to cable TV topped 100 million for the first time in China, and radio and TV covered 93.34 per cent and 94.62 per cent of the population respectively, or more than 1.2 billion people. There were 304 radio stations, 363 TV stations and 1,305 radio-TV stations offering more than 2,000 programs, averaging 23,000 hours a day.<sup>21</sup>

Chinese media are not only large in number but also steadily economically strong. In 2002, the total assets of the publishing industry in the country reached 191.9 billion CNY and the sales income was 152.2 billion CNY, nearly 1.5 per cent of GDP. Starting in 2001, Chinese media began to form groups. At present, there are already nearly 100 publishing and broadcasting groups. This development has helped optimise the allocation of resources, increase their strength and enhance their market competitiveness and social influence. It has also given an impetus to the reform of the media.

In the midst of vigorous development of traditional media, internet technology has spread widely in China. According to a survey conducted by the China Network Information Centre (CNNIC), by 30 June 2004 there were 87 million internet users in China, and within the prior two years the number had increased by about 10 million every six months. The number of computers connected on line reached 36.30 million. The number of domain names and websites registered under .cn reached

382,216 and 626,600 respectively. The number of broadband internet outlets reached 53,941 million. The number of IPv4 addresses on the Chinese mainland reached 4,900. A January 2003 survey conducted by the CNNIC shows that the main object of surfing the internet is to acquire news and information, accounting for 53.1 per cent of internet searches.<sup>22</sup> In economically developed areas, the influence of the internet is close to that of the print media. In some places, the number of internet surfers has already outgrown the total distribution of newspapers. The XinhuaNet and the People's Net have registered daily visits of more than 12 million. Some commercial websites, such as Sina, Sohu and Netease, started to turn a profit beginning in 2003. The founder and the majority shareholder of Netease, Ding Lei, was ranked at the top of China's list of richest people compiled by Rupert Hoogewerf (whose Chinese name is Hu Run) and published by the Forbes Company in 2003. Some other network founders have been listed in the front ranks of the Forbes list of China's richest people as well.

A massive and relatively mature media system was established during the period of planned economy, and except for the internet media there have been few entirely new faces in traditional media during the past 20 years. The few that exist are mostly derivatives arising out of continued dependence on the original media groups. The Regulations on Administration of Radio and Television provide in Article 10 that in setting up a new radio or TV station, apart from meeting the requirements for investment, personnel and worksite, it must have a sponsoring unit recognised by the publication administrative department of the State Council and a necessary government department in charge, and comply with China's plan on the total amount, structure and distribution of publishing units. Article 11 of the Regulations for the Administration of Publishing provides that central radio and TV stations be set up by the radio and TV administrative department of the State Council. To set up local radio and TV stations, the local radio and TV administrative department must file the application, which is submitted level by level up to the radio and TV administrative department of the State Council after being approved by the local government at its level. In September 2005, the News Office of State Council and the Ministry of Information Industry jointly issued the Regulations for the Administration of Internet News Information Services. The regulations provide in Article 7 that units eligible for applying for provision of internet news and information service shall be news organisations at the central level, those directly under provincial, autonomous regional and municipal governments and those directly under municipal governments at the seats of provincial and autonomous regional governments. These regulations have restricted the development of private media.

In the information era, media play an important role in distributing information, carrying out in-depth investigations and monitoring. However, media are a double-edged sword. They may stimulate the disclosure and transparency of information and thus enhance the accountability of government, but they may also spread rumours and slanders and exploit the irrationality of the public to distort public policies and even judicial impartiality. Starting in 2001, the magazine *News Reporter* has published a list of the top 10 fabricated news stories every year.

In order to regulate the professional behaviour of media workers, the SARFT on 2 December 2004 issued the Code of Professional Ethics for Radio and TV Editors and Reporters and the Code of Professional Ethics for Radio and TV Announcers and Anchors, putting forward clear requirements on their ethics, professional qualifications and working methods. The All-China Journalists Association has also played an important role in this respect.

To ensure the neutrality and impartiality of the media, the CCP Central Publicity Department, the former Ministry of Radio and TV Broadcasting, the GAPP and the All-China Journalists Association collectively issued the Several Regulations on Prohibition of News for Consideration Regulations on Banning Pay News. According to the regulations, news organisations shall not collect fees for gathering, editing and publishing news; journalists shall not borrow or use vehicles, houses, home electrical appliances and telecom tools for any reason from the subjects of reporting, or seek or accept cash gifts in any form when participating in news briefings, enterprise establishment and new-product inauguration and other ceremonies. News reports must be clearly distinguished from advertisements. Collecting fees in news reporting is not allowed, nor is advertising for enterprises in the disguised form of news reporting.

Media play an important part in making public service departments more transparent. Good media have the ability to carry out thorough investigations to get first-hand information and publish in-depth reports. Chinese media are developing in this direction.

For a reporter, investigation of corruption cases involves a certain degree of risk. In China, however, the main role of media in investigating corruption cases is to provide clues to special investigation departments such as public security agencies and procuratorates and to publish in-depth analysis and reporting on corruption cases already exposed. Up to now, therefore, there have been hardly any cases of personal injuries to reporters due to their investigation of corruption cases.

Media offer a platform for distributing and exchanging information, and their role in channelling public opinion cannot be underestimated. On the one hand, media need to transmit voices of anti-corruption agencies to the ordinary citizens, including latent corruptors, to educate them, provide them with guidance and exert the *force de dissuasion*. On the other hand, media have to reflect the voices of the people, including the private sector and civil society, and this may exert pressure on anti-corruption agencies. Media also have a role to play in monitoring the public service departments and their working personnel.

## Civil Society

Under the autocratic system before 1978, Chinese civil society had only limited space to develop. With the establishment and improvement of the socialist market economy, the state has loosened its control over social activities. Accordingly, China's civil society has gradually grown, playing an increasingly important role in society. China's civil society organisations mainly include the following four types of organisations. First, *legal civil society organisations*, which refers to People's organisations registered with the civil affairs departments at all levels, including organisations registered in accordance with the Regulations for Administration of the Registration of Social Organisations (1998), private non-enterprise units registered in compliance with the Provisional Regulations for Administration of the Registration of Non-enterprise Units Operated by the People (1998) and foundations registered in compliance with the Measures for Control of Foundations (1998). Among them, social groups and foundations enjoy status as legal persons, and private non-enterprise units are regarded, as circumstances require, as legal persons, partnerships or individuals. Social groups mainly include academic societies, groups and associations in a particular industry and trade, specialised societies, joint organisations, foundations, foreign chambers of commerce and groups from Hong Kong, Macao and Taiwan. Private non-enterprise units mainly include public service providers not run by the government, such as private hospitals, schools, troupes, old age homes, research institutions, centres, libraries and arts museums. By the end of 2004, there were 153,000 social groups, 135,000 private non-enterprise units and 936 foundations in China.<sup>23</sup>

Second, *grassroots civil society organisations*, which refers to organisations not officially recognised as legal persons but with, to a great extent, core features of non-governmental organisations (NGOs)—non-governmental and not-for-profit. They assume a variety of forms; the most common are two kinds: the secondary branch organisation of a unit, which does not enjoy independent legal status in terms of organisation; and an organisation that has legal status as an enterprise legal person with registration with the Administration for Industry and Commerce but carries out public welfare activities and enjoys tax preference recognised by the tax administration under various non-institutional conditions. Although there are no statistics available, most researchers estimate that the number of grassroots NGOs has reached at least 1 million, far exceeding the number of legal NGOs.

Third, *civil society organisations that have not taken shape*, which refers to transitional, marginal and other social organisations in the process of becoming NGOs or bearing potential features of NGOs. This includes transitional public institutions, village committees, urban community committees and other community autonomous organisations, property owner committees and on-line groups.

Finally, *foreigners' civil society organisations in China*, which refers to social organisations set up by foreigners in China or Chinese representative offices of foreign civil society organisations.

Generally speaking, civil society organisations mainly refer to legal civil society organisations. In addition, among the legal civil society organisations, there are 33 special organisations that enjoy legal status without registering with the civil affairs departments. These include the eight People's organisations participating in the political consultative conference and 25 social groups exempt from registration as approved by the State Council, all of which are in fact public service units.<sup>24</sup>

In 1998, the State Council issued Regulations for Administration of the Registration of Social Organisations and the Provisional Regulations for Administration of the Registration of Non-enterprise Units Operated by the People. In 2004, the State Council went on to issue Measures for Control of Foundations. These three administrative regulations have detailed provisions on registration and administration of social groups, private non-enterprise units and foundations. According to these regulations, all social groups, private non-enterprise units and foundations must have administration units at the next higher level, which should be relevant departments of or organisations authorised by the State Council or local governments at and above county level. This in fact sets a threshold for establishment of civil society organisations, forcing some organisations to carry out activities only in other forms, such as registering as enterprises.

Due to the existence of the leadership relationship in operation, most civil society organisations have close ties with government departments. At present, China's civil society organisations are mainly active in areas such as education, science and technology, public welfare, culture and sports. There are few devoted to integrity system building, except for those organisations with official backgrounds, such as the China Supervision Society. But in recent years, some academic organisations are devoted to the study of the integrity system, such as the Anticorruption and Governance Research Center of Tsinghua University. Some international organisations that specialise in corruption study, such as TI and PIEN (Public Integrity Education Network), are actively carrying out their agendas in China. TI entered China in 2001 and opened a liaison office at the Anticorruption and Governance Research Center of Tsinghua University. Over the past few years, TI has promoted the exchange of experience and materials on anti-corruption measures, held relevant seminars and played a positive role in promoting integrity education among youth and in promoting social responsibility among enterprises. UNDP, WB and OECD have also launched many projects in China on the study of the integrity system.

In 2005, China began moves to strengthen integrity education among youth and cultivate integrity in social culture. Civil society has played an important role in this respect. In 2003, Hangzhou and Ningbo in Zhejiang Province began to introduce integrity education into primary and secondary schools, a move that was welcomed by the students.<sup>25</sup> In 2005, the Chinese government introduced integrity education into urban communities, rural areas, schools, enterprises and even families, in an attempt to create a social atmosphere of 'taking pride in maintaining integrity and shame in corruption.' On 1 July 2005, the Ministry of Education decided to carry out pilot projects in making integrity education part of school curricula in universities, secondary and primary schools in 10 provinces and cities, including Beijing, Tianjin and Shanghai, starting in the latter half of 2005. These measures have played a positive role in enhancing the awareness of integrity among children and young people.

With a relatively short history of development, China's civil society organisations still have many irregularities in their daily operation. But their accountability has been increasingly strengthened. Some civil society organisations with financing mainly from social donations and foreign civil society organisations are required to publish their financial status regularly and accept auditing. As a result, their transparency has been enhanced.

No regulatory restrictions exist on the working personnel of civil society organisations with regard to conflicts of interest, accepting gifts and attending banquets. To date, no civil society organisations have been accused of corruption.

China's civil society is still in the development stage. It can, therefore, play only a limited role in building the national integrity system. However, some civil society organisations or para-civil society organisations represented by some academic organisations have played a positive role in the study of corruption. Civil society has tremendous space for development in the national integrity system, and this represents an important orientation of development for civil society organisations.

## Business Sector

In December 1993, China's NPC promulgated the Corporation Law, which came into force on 1 July 1994. This represents a milestone in China's building of a modern enterprise legal system. The law has detailed provisions concerning limited liability companies and joint stock companies in terms of establishment and organisational setup and issuance and transfer of shares. In addition, China has a State-owned Industrial Enterprises Law (1988), the Wholly Individually Owned Enterprises Law (1999) and the Wholly Foreign-owned Enterprises Law (promulgated in 1986 and revised in 2000). These laws provide the legal basis for regulating the behaviour of enterprises, including legal responsibilities and punishment for violations of the laws. For special industries and business activities, China has laws such as those on trademarks (promulgated in 1982 and revised in 2001), bankruptcy (for trial implementations), contracts (1999) and securities (1998). The Criminal Law, as revised in 1997, specifies the legal liabilities of the working personnel of banks, securities, insurance and other financial institutions in its articles 179 through 190.

Controlling commercial bribery has been an important aspect of the struggle against corruption in China in the past several years. In September 1993 the country issued the Law against Unfair Competition to crack down on commercial bribes. The State Administration for Industry and Commerce (SAIC) promulgated in 1996 the Provisional Regulations on Prohibition of Commercial Bribery Activities. The Law against Unfair Competition provides in Article 8 that business operators may not use bribery, by giving property or otherwise, to sell or purchase merchandise. Those that grant secret, off-the-books rebates to their opposite units or individuals shall be treated as having given bribes, and opposite units or individuals that accept secret, off-the-books rebates shall be

treated as having accepted bribes. Article 389 of the Criminal Law provides that an act of giving state functionaries money or valuables in order to seek illegitimate gain constitutes the crime of offering bribes. In economic activities, whoever gives money or valuables to state functionaries in violation of state provisions, when the amount is fairly large, or gives a kickback or service charges of various types to state functionaries in violation of state provisions is to be dealt with as committing the crime of offering bribes. Whoever gives money or valuables to state functionaries for the purpose of extortion but receives no illegitimate gain shall not be considered as committing the crime of offering bribes.

According to statistics from the SAIC, from 2000 to the first half of 2005, the administrations for industry and commerce at all levels in the country uncovered 13,606 commercial bribery cases at a value totalling 5.28 billion CNY and imposed fines worth 810 million CNY. In order to strengthen the crackdown on commercial bribery, the CCP General Secretary Hu Jintao said at the Sixth National Conference of the CCP CCDI in January 2006 that the CCDI should be more earnest in carrying out the control of commercial bribery in 2006, resolutely correct illicit trading behaviour and uncover commercial bribery cases according to law. The draft 6th amendment to the Criminal Law, as submitted on 24 December 2005 for deliberation by the 19th session of the 10th NPC Standing Committee, extends the coverage of commercial bribery crime to working personnel of units other than companies and enterprises. That means that commercial bribery activities occurring in the procurement of medicine and medical apparatuses by medical treatment institutions, such as receiving kickbacks, sponsorship fees and new medicine recommendation fees in large amounts, will become a crime of commercial bribery and subject to criminal sanctions.

To address the connection between money laundering and corruption, China set up an anti-money-laundering bureau within the People's Bank of China on 16 March 2004 and increased the number of members of the State Council's ministerial joint conference on efforts against money laundering. On 2 November 2004, the State Administration for Foreign Exchange (SAFE) issued the '2003 Report on the Struggle against Money Laundering in the Area of Foreign Exchange'. This is the first annual report produced by China in this regard. In the same year, China began to draft an anti-money-laundering law. It is anticipated that the draft will soon be submitted to the NPC Standing Committee for deliberation.

The private and individual economy has developed rapidly during China's economic reform and transition, with its proportion in the whole economy rising significantly in terms of both GDP and the number of people employed. What is left of state-owned enterprises (SOEs) are mostly monopolistic trading and services that take a dominant position, such as banking, petroleum, telecom and civil aviation industries. Most of the other sectors have been left to market competition. The opening and introduction of the competition mechanism in monopolistic trading and services depends on the progress of their reform. As China's commitments to the World Trade Organisation are slowly realised, these monopolistic enterprises will gradually be opened. Even if they still remain monopolistic in nature, the operational mechanisms will become more and more flexible. In 2005, the State-owned Assets Supervision and Administration Commission (SASAC) of the State Council organised 25 centrally administered SOEs to solicit senior management personnel worldwide, indicating the increasingly open and pragmatic stance of China's SOEs. In addition, private investment in China has become more and more active, especially in the stock market and in the development of private enterprises.

Commercial enterprises must comply with relevant laws and regulations applicable to each type of enterprise or business activity. The SAIC is responsible for registration and administration of these enterprises. In terms of taxation, health quarantine and quality supervision, commercial enterprises are also subject to oversight and administration by other relevant administrative departments. Chinese enterprises are increasingly concerned about their integrity and social responsibilities. In February 2006, the Overseas Chinese Affairs Office of the State Council and the China News Service jointly sponsored an international forum on social responsibilities of Chinese enterprises and initiated a discussion in this regard. The governance of Chinese enterprises has also been improved to prevent corruption and conflicts of interest. In 2001, China joined the Global Compact organisation initiated by UN Secretary General Kofi Annan. Up to now, 51 Chinese enterprises, such as PetroChina, Baoshan-Steel, Haier and the China Society for the Promotion of the Guangcai Program (CSPGP), have signed the UN Global Compact.

Not all general data about companies registered in China are made open to the public. Such data can be retrieved from the administrations for industry and commerce through an established procedure. China sets requirements on key leaders of limited liability companies and joint stock companies with regard to their integrity. The Corporation Law, as revised in 2005, provides in Article 147 that people who have committed graft, bribery, misappropriation of funds or other economic crimes and been sentenced to imprisonment or deprived of political rights are not allowed to serve as directors,

supervisors or general managers of a company within five years after the expiration of the enforcement period. Companies listed in the stock market are required to report their operations regularly and provide accounting reports; this is not a general requirement for non-listed companies. SOEs' financial situation is subject to auditing and oversight by auditing departments.

Any person may report corruption of commercial sector entities to a local public security agency or procuratorate, and under relevant laws these departments should protect and reward informants. Over the past two years, MSD (Merck in the USA), Lucent and the DPC (Tianjin) Co. Ltd. have been investigated or punished for commercial bribery.<sup>26</sup> For this reason, Lucent dismissed four senior management personnel of its Chinese subsidiary, and DPC (Tianjin) was fined US\$4.8 million by the US Department of Justice and the US Securities and Exchange Commission for offering bribes of US\$1.623 million to the staffs of laboratories in China and doctors of Chinese state-owned hospitals from 1991 to 2002. On 1 January 2006, China's procuratorates established a data research system, retrievable nationwide, for bribery cases, with bribery blacklists in such fields as construction, finance, education, health and medicine and government procurement. Once bribery information is put into the data bank, it will be undeletable. This will help exert *force de dissuasion* on latent bribers and create a more scrupulous society.

The commercial sector is the foundation of a nation's economic development. In the market of corruption, public departments and the commercial sector play the roles of suppliers and demanders. China regulates commercial enterprises relatively strictly. However, with the progress in the reform of the administrative approval system and the promulgation of the Administrative Permission Law, the external environment for the commercial sector has been greatly improved, and government intervention has decreased steadily. With the opening of China's media, meanwhile, the commercial sector will be subject to increasingly intense oversight with regard to transparency and integrity.

## International Institutions

Just as it has learned about economic development, China's government has become more and more aware of the importance of opening up, absorbing foreign experience and lessons and strengthening international cooperation and exchange with respect to its integrity building. That is why the Chinese government has accelerated the pace of international cooperation over the past few years. On 23 September and 10 December 2003, China signed the UN Convention against Transnational Organised Crime and the UN Anti-Corruption Convention respectively. The NPC approved the UN Anti-Corruption Convention on 28 October 2005. At the same time, China has signed bilateral extradition agreements with more than 20 countries. All these have laid a good foundation for international cooperation in the struggle against corruption.

At present, many international organisations are quite active in China's integrity system. The World Bank, the UNDP and the OECD closely watch China's corruption problem. The World Bank and the School of Public Management at Tsinghua University have jointly held a number of international forums in which outstanding international scholars gathered to discuss control of corruption. The UNDP and the Chinese government cooperated to launch the China Integrity System-Building project in 2002. Each side contributed US\$3 million to China's anti-corruption research, legal framework design, draft of integrity promotion measures, education and training. The OECD has been active in promoting the anti-commercial-bribery struggle in China and publicising the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the OECD Principles of Corporate Governance. In April 2005, China officially joined the Asia-Pacific Anti-Corruption Program of Action organised by the Asia Development Bank and the OECD. However, apart from the contribution by the UNDP in the building of China's integrity system, international organisations such as the World Bank and the OECD do not have established budgets to finance and support anti-corruption research and activities.

International organisations must comply with the laws of China in their activities, such as the Regulations for Administration of the Registration of Social Organisations. All offices of international organisations in China must attach themselves to a certain Chinese domestic unit or have a Chinese cooperation partner. For instance, the China office of the World Bank is attached to the Chinese Academy of Social Sciences, and the UNDP has its China office attached to the China Centre for International Technical Exchange. International organisations are required to notify the units to which they are attached in advance of their plans and the progress of their activities.

China does not have a code of conduct for people working in international organisations. As these international organisations are devoted to anti-corruption efforts, they have very strict internal rules to prevent the occurrence of corruption and conflicts of interest. Any person may report corruption by people working in international organisations to Chinese public security agencies and procuratorates

or to head offices of these international organisations. But basically no such case has arisen in the past few years.

International organisations generally have a high degree of transparency, with open decision-making procedures and standards. The public learn about them mainly through browsing their websites and promotional materials and through Chinese media. Their publications are usually in the form of books or brochures, mostly in Chinese, with some in English.

International organisations are an important component of global civil society, and they have maintained close ties with local civil society organisations by providing development funds, launching cooperation projects and spreading principles and ideas. Offices of international organisations in China have close cooperation with the Chinese government and commercial sector to help build a Chinese society with a high degree of integrity.

## Notes

- <sup>1</sup> Details of the NIS can be found in *The TI Source Book 1997 and 2000* and the *TI Anti-Corruption Handbook* (Berlin: Transparency International [TI], 1997, 2000), [www.transparency.org](http://www.transparency.org).
- <sup>2</sup> Calculated by the author using data from the *China Statistics Yearbook* (Beijing: National Statistics Bureau, 2006).
- <sup>3</sup> Yong Guo, *The Economic Transition, Institution and Corruption* (Beijing: China Fangzheng Press, forthcoming).
- <sup>4</sup> Xin Ru, ed., *Social Blue Report: Analyses and Forecast of the Social Instance in China* (Beijing: China Social Science Literature Press, 2004), p. 16. Corruption Perceptions Index, Transparency International, [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi).
- <sup>5</sup> Yong Guo, *The Economic Transition, Institution and Corruption* (Beijing: China Fangzheng Press, forthcoming).
- <sup>6</sup> According to Angang Hu's estimation, this was about 13.2 per cent to 16.8 per cent of China's GDP every year in the late 1990s. Angang Hu, 'The Economic Loss Caused by Corruption in the Late 1990s in China', *International Economic Review*, vol. 5-6 (2001): 12-21.
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- <sup>8</sup> 'Curtailling "Corruption on the Wheel": Guangdong's reform of the use of public vehicles extending to provincial agencies', China News Service website, 24 August 2004.
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- <sup>12</sup> 'Report by Shenyang Intermediate People's Court is not passed by the People's Congress', *People's Daily*, Overseas Edition, 15 February 2001, 4.
- <sup>13</sup> Report of the Supreme People's Procuratorate, 2005.
- <sup>14</sup> Huang Weiding, *The Lost Dignity: A Memo on Anticorruption* (Beijing: World Knowledge Press, 1999), p. 343.
- <sup>15</sup> Supreme People's Procuratorate Tip-Off Centre website, [www.jubao.gov.cn](http://www.jubao.gov.cn).
- <sup>16</sup> Statistics show that since the CPCCCPC CDI united with the Ministry of Supervision, the number of their divisions, offices and bureaus has been cut by 23.3 per cent, and the number of internal organisations of provincial, autonomous regional and autonomous municipal CPCCCPC CDI and supervision departments has been reduced by 26.4 per cent on average. The number of internal organisations at prefecture, municipal and county levels has been cut by about 20 per cent on average. 'The CPCCCPC CDI and the Ministry of Supervision united their works', China Integrity Network, [www.lianzheng.com.cn](http://www.lianzheng.com.cn).
- <sup>17</sup> 'State Audit Office Plans to Make Entirely Open its Audit Results by 2008', *Jinghua Times*, 13 March 2005.
- <sup>18</sup> 'Li Jinhua's Audit Work Report Exposes 38 Central Departments for Violating Financial Discipline, involving 9 billion RMB', Xinhua, Beijing, 28 June 2005.
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- <sup>25</sup> Ibid.
- <sup>26</sup> 'Is it Instructive to Fight Against Corruption from the Kids?', *People*, 14 April 2005, <http://opinion.people.com.cn/GB/1036/3318851.html>.
- <sup>27</sup> 'The Storm of Fight Against Commercial Bribery in China', Sina, <http://finance.sina.com.cn/focus/fsyfb/>.