POWER SURGE: CHINA'S NEW NATIONAL SUPERVISORY COMMISSION

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DURING XI JINPING's first term in office, his flagship anti-corruption drive roiled through the Party; in his second term, it is reshaping the state. In March 2018, the National People's Congress (NPC) established the National Supervisory Commission (NSC) — a massive new anti-corruption body — and introduced the Supervision Law of the People's Republic of China to regulate it. The new NSC is a powerhouse. It reports directly to the NPC, making it a co-equal branch of government with the judiciary, the Supreme's People's Procuratorate, and the State Council.

The Supervision Law concentrates power in the NSC by consolidating anti-corruption work that had previously been parcelled out among

multiple state and Party agencies. On the state side, these include the Procuratorate, the State Council, and the National Bureau of Corruption Prevention. Many of the duties of state agencies have been folded into the NSC. On the Party side, the Central Commission for Discipline and Inspection (CCDI) formerly spearheaded anti-corruption efforts. The Party-led CCDI remains intact, but it now works hand-in-glove with the NSC.

Critics argue that the Supervisory Law removes the legal circuit breakers that are used to partially regulate anti-corruption power. Previously, state anti-corruption bodies nominally adhered to administrative and criminal law. Meanwhile, the Chinese Communist Party (CCP) enforced discipline

through an extralegal political channel, which allowed the CCDI to use fear-some detention measures known as *shuanggui* 双规.¹

The new Supervision Law crosses the state and Party wires. It provides the NSC with a new investigative power — *liuzhi* 留置 (retention in custody) — that is remarkably similar to *shuanggui*. *Liuzhi* allows the NSC to hold a suspect in custody for six months without counsel or a hearing. Unlike the previous Party-enforced measure, it has been enacted. But this law stands in direct legal tension with due process protections laid out in China's Criminal Procedure Law, China's Constitution, and international law.² So, while the new Supervisory Law formally re-routes anti-corruption power through legal circuits, it damages those circuits as well.

The Supervision Law extends the grid of anti-corruption powers over more Chinese citizens than ever before. The CCDI already had the power to investigate and detain Party members, but only about eighty per cent of civil servants are in the CCP.³ The NSC now has jurisdiction over state actors who are not Party members as well. Its mandate is to investigate public employees and 'relevant personnel' including not only officials, but also managers at

state-owned enterprises, people engaged in management in public education, scientific research, culture, health care, and sports, and 'other personnel who perform public duties in accordance with the law'.

While the NSC is a behemoth, its amalgam of state and Party power might ironically prove that the whole is less than the sum of its parts. From the state's perspective, some of the NSC's authority is sapped from other agencies. For example, the Procuratorate, a major state power player, stands to lose out. Previously, a corruption case investigated by the Party required re-investigation by the Procuratorate before charges were laid. The new law strips it of that mandate. While this change is officially billed as reducing administrative duplication, it also reduces the Procuratorate's power. Anti-corruption personnel are also being transferred to the NSC, despite resistance from the Procuratorate.⁴

From the Party's perspective, the Supervision Law is one of a number of reforms that increase political dominion over formal state governance, targeting public employees and CCP members alike for elevated scrutiny and discipline. But it is not clear that this will increase Party power over time. The CCP has enjoyed surprising

**New powers for
the National
Supervisory
Commission:
retention in
custody**

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longevity — a fact that may owe to the innovation of a hyphenated Party-state, in which the hyphen delineating politics and administration makes the compound durable; as Party and state merge, both may become more fragile.

While critics worry that the NSC signals even more centralised power under the Xi administration, the formation of the NSC may instead highlight the surprising powerlessness of Beijing against local interests. The central government's concern that corruption undermines legitimacy is not always shared by local governments.⁵ And it is local government that is most powerful on the ground in China. This problem is not new. The balance of power between central and local administrators is arguably the most enduring historical challenge of Chinese statecraft. Un-

able to restrain corruption using local government hierarchies, administrations from late imperial China to the present have turned to external overseers — such as the Censorate in the Ming dynasty, the Control Yuan under the Republic, and the NSC today — as top-down workarounds. While these overseers may have had some short-term success, none has fixed the structural divide between local and central interests that is at the root of the issue.

The formation of the NSC seems to indicate a surge of power away from the law, towards the Party and the centre, but it remains unclear whether this power will flow as predicted, and whether the circuits can handle the load; too much power all at once may cause a power outage, or, even worse, burn down the house.

This text is taken from *China Story Yearbook 2018: Power*,
edited by Jane Golley, Linda Jaivin, Paul J. Farrelly and Sharon
Strange, published 2019 by ANU Press, The Australian National
University, Canberra, Australia.

doi.org/10.22459/CSY.2019.01A