

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY
CHINA**

ARTICLE 11 UNCAC

JUDICIAL AND PROSECUTORIAL INTEGRITY

CHINA (EIGHTH MEETING)

（四）制定《最高人民法院关于完善人民法院司法责任制的若干意见》

为贯彻中央关于深化司法体制改革的总体部署，优化审判资源配置，明确审判组织权限，完善人民法院的司法责任制，建立健全符合司法规律的审判权力运行机制，增强法官审理案件的亲力性，确保法官依法独立公正履行审判职责，根据有关法律和人民法院工作实际，最高人民法院制定了《最高人民法院关于完善人民法院司法责任制的若干意见》，分别从目标原则、改革审判权力运行机制、明确司法人员职责和权限、审判责任的认定和追究、加强法官的履职保障、附则等方面对人民法院司法责任制的相关内容进行了规定。文件明确规定，各级人民法院应当成立法官考评委员会，建立法官业绩评价体系和业绩档案。业绩档案应当以法官个人日常履职情况、办案数量、审判质量、司法技能、廉洁自律、外部评价等为主要内容。法官业绩评价应当作为法官任职、评先评优和晋职晋级的重要依据。同时，要求法官应当对其履行审判职责的行为承担责任，在职责范围内对办案质量终身负责。法官在审判工作中，故意违反法律法规的，或者因重大过失导致裁判错误并造成严重后果的，依法应当承担违法审判责任。法官有违反职业道德准则和纪律规定，接受案件当事人及相关人员请客送礼、与律师进行不正当交往等违纪违法行为，依照法律及有关纪律规定另行处理。

（五）制定《人民法院落实〈司法机关内部人员过问案件的记录和责任追究规定〉的实施办法》

为落实中央关于司法机关内部人员过问案件的记录和责任追究规定》，确保公正廉洁司法，结合人民法院工作实际，制定了《人民法院落实〈司法机关内部人员过问案件的记录和责任追究规定〉的实施办法》，明确人民法院工作人员遇有当事人及其关系人请托过问案件、说情打招呼或者打探案情的，应当予以拒绝；人民法院工作人员遇有案件当事人及其关系人当面请托不按正当渠道转递涉案材料等要求的，应当告知其直接递交办案单位和办案人员，或者通过人民法院诉讼服务大厅等正当渠道递交。该实施办法明确要求为案件当事人及关系人请托说情、打探案情、通风报信的；邀请办案人员私下会见案件当事人及其关系人的；不依照正当程序为案件当事人及其关系人批转、转递涉案材料的；非因履行职责或者非经正当程序过问他人正在办理的案件的；其他违反规定过问案件的行为等，属于违反规定过问案件的行为，应当依照《人民法院工作人员处分条例》第三十三条规定给予纪律处分；涉嫌犯罪的，移送司法机关处理。

（六）制定《法官纪律处分条例》

制定《法官纪律处分条例》，要求法官遵守办案纪律、廉洁纪律和其他各项纪律，对于违反纪律规定的，根据情节轻重分别作出警告、记过、记大过、降级、撤职、开除处分，涉嫌犯罪的，移送相关司法机关追究刑事责任。与此同时，积极利用典型法官违纪违法案例开展警示教育，引导广大法官从中吸取教训，筑牢公正廉洁司法的思想防线。

（七）加强对全国法院干警的廉洁教育培训，确保廉洁教育全员化

最高人民法院坚持举办廉洁教育专项培训班和讲座，对本院

干警进行集中轮训，2016年培训800余人。指导国家法官学院举办廉洁教育培训示范班，在方案制定、课程设置等方面为各级法院做出示范，带动全国法院对干警进行系统、规范、有效的廉洁教育培训，形成上行下效、整体联动的总体效应。2016年国家法官学院以各级法院领导干部和骨干法官为培训对象，举办7期培训班，培训1300余人。同时，将廉洁教育作为各级各类培训的必修课。在预备法官训练、法官续职培训、法官晋职、晋级培训、少数民族法官和双语法官培训以及日常业务培训等各类培训中，针对干警任职不同阶段、不同岗位的廉政风险点，有针对性地设置培训内容，确保干警能接受与其任职阶段、岗位相适应的廉洁教育。各级培训机构充分发挥职能作用，将廉洁教育延伸到基层一线，接触到每位干警，实现廉洁教育全覆盖。

（八）坚持举办纪检监察干部培训班，提高全国法院纪检监察干部素质和能力

最高人民法院每年坚持举办“全国法院纪检监察综合业务培训班”，对全国法院系统纪检监察干部进行集中培训，邀请中纪委、最高检等相关业务部门领导进行授课，2016年培训230余人。同时，指导全国法院加强对纪检监察干部的日常培训，帮助纪检监察干部提升自身素质，加强纪律观念，强化监督意识，提高业务能力。

（九）坚持培训方式创新，保证培训效果

在传统课堂讲授的基础上，创新培训方式，强化培训效果。加强案例警示教育，向各级法院下发《人民法院警示教育案例选编》等读本，并将发生在本系统的案例制作成廉洁教育警示片。深入开展体验式教学，组织干警参观廉洁教育基地和监狱，听取职务犯罪人员现身说法，增强廉洁教育感染力和效果。广泛开展情景式教学，组织干警旁听职务犯罪庭审，撰写心得体会，增强

拒腐防变能力。

（十）坚持环境熏陶、活动助推，促进廉洁教育常态化

在最高人民法院指导下，各级法院不断加强廉洁文化建设，通过创建廉洁网页，建设廉洁文化长廊，举办廉洁书画展，签署廉洁承诺书、开展家风家训教育、家庭助廉、亲情促廉活动等方式，发挥廉洁文化潜移默化、久久为功的作用。同时，注重从集中性教育向经常性教育延伸，借助互联网、微信等媒体功能，开展日常主题廉洁教育，促使干警将“廉洁”牢记于脑、内化于心、外化于行。

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY CHINA

ARTICLE 11 UNCAC

JUDICIAL AND PROSECUTORIAL INTEGRITY

CHINA (FOURTH MEETING)

A. Measures to Strengthen Integrity and Prevent Corruption in China's Judiciary Service

China's judiciary service includes the Supreme People's Court, local people's courts and special people's courts such as military courts. As judicial organs of the state set up in accordance with the Constitution of China, the people's courts try all criminal cases, including cases of embezzlement, bribery, and dereliction of duty considered to involve corruption, make timely and fair court decisions on cases of embezzlement, bribery, and dereliction of duty that the prosecution service initiates public prosecution and punish crimes of corruption. China's judiciary service has devoted intensified efforts to strengthening integrity and preventing opportunities for corruption among its members on the principle of fighting corruption in a comprehensive way, addressing both symptoms and root causes, and combining punishment with prevention, with the emphasis on the latter. On the one hand, China's judiciary service adopts a zero tolerance attitude towards judiciary corruption and cracks down on corrupt acts resolutely. On the other hand, preventive measures are equally emphasized to address corruption at the source.

I Complete legal framework to punish offenders in the judiciary service

Corrupt acts, though quite rare in China's judiciary service, bear far-reaching negative impacts. The Criminal Law of the People's Republic of China criminalizes such corrupt acts in the judiciary service as bribery, abuse of official power, and favoritism. Judges Law of the People's Republic of China also stipulates that judges should not embezzle money or accept bribes, bend law for personal gain, extort confessions by torture, conceal or falsify evidence, divulge State secrets or secrets of judicial work, abuse functions and powers, neglect his or her duty, take advantage of the functions and powers to seek personal gain, or meet the party concerned or his or her agent without authorization and attend dinners or accept presents given by the party concerned or his or her agent. Judges and other judiciary officers who violate the above-mentioned regulations will be punished by warning, demerit recording, major demerit recording, demotion, dismissal from post, or discharge from office in accordance with the Punishment Regulations of Judiciary Service. In criminal cases, persons involved should be transferred to procuratorates to have responsibilities investigated. In 2010, Huang Songyou, former Vice President of the Supreme People's Court who committed corruption and took bribes

worth RMB 5.1 million (about USD 820,000) was sentenced to life imprisonment. It may be viewed as an example of China's resolution to crack down on corruption in the judiciary service.

II Detailed professional ethics to promote self-discipline among members of the judiciary service

China's judiciary service attaches great importance to the construction of judges' professional ethics and energetically improves their awareness of self-discipline so that they can consciously resist the lure of profits, the influence of power, and the disturbance of relations. The Supreme People's Court issued the Basic Norms for the Professional Ethics of Judges to make justice, honesty and serving the people the core values of judges. It requires that all judges be loyal to the judiciary cause, practice justice, safeguard integrity, and serve the people whole-heartedly. Judges should keep away the influences of powers and social relations in fulfilling their duties, consciously refuse to seek illegal interests by taking advantage of their duties or their positions, provide convenience for people concerned and other participants in legal proceedings, and guard the image of the judiciary service with their sound professional conducts.

The Supreme People's Court also issued the Code of Conduct for Judges which provides specific guidance for judges in performing their duties, including case filing, court trial, litigation mediation, documentation, implementation and activities after work. Other regulations on the prevention of conflict of interests and the clean performance of judiciary duty include the Regulations on Implementing Integrity Principles and Preventing Conflict of Interests in the Judiciary Service, judiciary interpretations on avoiding conflict of interests in litigations, regulations on the relation between judges and lawyers, and provisions on job restraints for family members of judges, etc. For instance, Article 2 of the Regulations on Implementing Integrity Principles and Preventing Conflict of Interests in the Judiciary Service requires that members of the judiciary service should not accept undue profits, gifts, treatments, trips, and entertainment that may interfere with the fair execution of the official duty. Violation is subject to punishments specified in Article 59 of Punishment Regulations of Judiciary Service. Regulations on Employment Avoidance of Leading Carders, Officials, and Judges in Judgment and Execution Positions of the Judiciary Service whose Spouses and Offspring Work as Lawyers (trial) requires that leading carders, officials, and judges in judgment and execution positions of the judiciary service should be subject to avoidance regulations if their spouses or children are working as lawyers under the same jurisdiction.

III Sound institutions to regulate judiciary power

Nothing can be accomplished without norms or standards. China's judiciary service emphasizes institutional improvement to ensure proper exercise of judiciary power. In order to prevent corruption risks brought by under-table deals and enhance judicial transparency, the Supreme People's Court issued the guidance on promoting publicity of judicial affairs to promote courts of various levels to constantly improve the system of publicizing court trials. In addition, standard procedures are established for the

interpretation of judgment basis, online publicity of judgment papers, the hearing of filing of re-tried cases, access to litigation documents and access to execution information to ensure the transparent operation of the judiciary service. In order to regulate the exercise of discretion by judges, the Supreme People's Court formulated the guiding opinions on regulating the use of discretion in trial and execution of court decisions, specifying conditions and principles for the use of discretion. Discretion is further regulated with the issuance of judicial interpretations, the publication of exemplary cases and the promotion of standard sentence procedures. In order to prevent judges from intentionally trading official power for personal gains, the Supreme People's Court promotes reforms of the work mechanisms of execution and judicial auction in an all-round way and provides guidance for local courts in establishing a new work mode featuring the separation and balance between the judgment function and the implementation function. The third-party trade platform is introduced to implement the new judicial auction mechanisms such as electronic bidding and Internet-based trade, cutting the interest links between judges and intermediary organizations such as auction agents.

IV Effective supervision to prevent abuse of judiciary power

Powers without restraint naturally lead to corruption. China's judiciary service, while protecting the independence of the judiciary power, takes active measures to establish the internal and external supervision mechanism.

In terms of internal supervision, discipline inspection department are set up in people's courts nationwide to take charge of public complaints against the judiciary service and investigate corrupt acts of judges. Designated personnel work as full-time or part-time integrity supervisors in judgment and execution functions to provide daily supervision over the observance of integrity principles and discipline requirements. The top-down patrol and inspection system is widely established. People's courts of a higher level can conduct public or secret inspections on integrity-related issues of courts of a lower level.

In terms of external supervision, there exist plenty of external channels to supervise the judiciary service. According to China's Constitution, China's courts of various levels are subject to the supervision of the people's congresses and their standing committees of the same levels, to which the courts should regularly report their work. China's Procedural Law also stipulates that China's courts are subject to the litigation supervision of the procuratorates and should try the cases filed by procuratorates in challenge of effective judgments. Moreover, China's courts also actively accept supervision from the press and all walks of life through public opinion boxes, complaint and report websites, the public jury system, press conferences and the engagement of the public as special consultants and supervisors.

B. Measures to Strengthen Integrity and Prevent Corruption in China's Prosecution Service

China's prosecution service is composed of the Supreme People's Procuratorate, local peoples' procuratorates, and special peoples' Procuratorates such as military procuratorates. As state organs for legal supervision, the people's procuratorates pursue liabilities of criminal acts, investigate state functionaries suspected of embezzlement and bribery, dereliction of duty, encroachment of right and other duty-related crimes, prevent duty-related crimes, and submit public prosecutions to people's courts on behalf of the state in accordance with the law. In recent years, China's prosecution service has devoted intensified efforts to building a corruption punishment and prevention system on the principle of fighting corruption in a comprehensive way, addressing both symptoms and root causes, and combining punishment with prevention, with the emphasis on the latter and made considerable progress in strengthening integrity and preventing opportunities for corruption. Efforts to address prominent social issues are increasingly recognized by the public.

I Improve legal framework

China's prosecution service has developed a complete set of laws and regulations for combating corruption and strengthening integrity, forming a legal framework with scientific contents, rigorous procedures, well-matched regulations and effective administration. Besides specific provisions on integrity instructions before appointment, admonition talks, report of relevant personal matters, report of performance and integrity, and the economic accountability auditing system established by the Supreme People's Procuratorate, the legal framework also includes Code of Ethics for P.R.C Procurators (trial), Norms for Prosecution Service on Clean Exertion of Official Duties (trial), Regulations on Prohibiting Treatment and Gift-giving with Public Funds in Internal Official Activities of Prosecution Service, and other rules of conduct. According to Article 2 of Norms for Prosecution Service on Clean Exertion of Official Duties (trial), the prosecution service is strictly prohibited from seeking illegitimate gains by misuse of office or abuse of official power, soliciting, accepting or misappropriating properties of relevant parties or individuals directly involved in cases or other parties or individuals that are related to the prosecution service's exercise of official power. Sanction and punishment for the violation of integrity and discipline are provided for by Regulations on Supervision Work of People's Procuratorates, Regulations on Disciplinary Sanctions of the Prosecution Service (trial), and other regulations related to internal supervision, accountability and inspection. According to Article 70 of Regulations on Disciplinary Sanctions of the Prosecution Service (trial), the acceptance of undue gifts and other advantages and failure to report or hand over to higher authorities are subject to sanctions of explicit warning, recording of demerit, and recording of major demerit for minor offences, demotion and dismissal from post for major offences, and discharge from office for offences of extremely serious consequences.

II Strengthen control over prosecution powers

Special provisions have been developed to strengthen internal supervision, not only on the prosecution service as a whole but also on its specific investigation and law

enforcement functions. Procuratorates at lower levels are also subject to the supervision of those at higher levels, through integrity talks of officials at higher levels with those at lower levels, participation of officials of higher levels in democratic meetings of those at lower meetings, and the report of performance and integrity by procurators of provincial people's procuratorates to the Supreme People's Procuratorate. Through these measures, the control over procurators' official power is also strengthened. Inspection tours are conducted regularly and the leadership system, working mechanism, and actual effects of inspection are considerably improved. Assessment is also launched on the application of inspection findings of 25 provincial people's procuratorates. The supervision over law-enforcement and investigation activities is also strengthened through process supervision, online supervision, return visits of major cases, and investigation of accountabilities. The Supreme People's Procuratorate also examines the performance of over 271 local procuratorates and 53 dispatched prosecution units of 29 provinces. So far, local procuratorates have themselves conducted a total of 137, 000 rounds of examinations of the performance of their subordinate bodies.

III Curb corruption through institutional reform

In view of the major fields and key links likely to breed corruption, vigorous efforts have been made to promote institutional reform and innovation and strive to prevent and control corruption at the very source. The correct exercise of the investigative power in duty-related crime cases is enhanced through the improved supervision and control mechanism, the synchronizing audio and video recording mechanism of the interrogation process, and the decision-making mechanism which requires the procuratorates of a higher level to assess and approve the request of arrests made by procuratorates of a lower level in duty-related crime cases below the provincial level. The department in charge of protested cases in the prosecution service is not allowed to involve in the investigation of duty-related crime cases, thus separating the power of prosecution supervision from that of investigation of duty-related crimes. Rules of Conduct have been developed and vigorously implemented for law enforcement activities by the prosecution service to provide standards and regulate the use of discretion. The management mechanism of law enforcement and investigation activities has been established, featuring a uniform channel of case acceptance, whole process management, dynamic supervision, and comprehensive assessment. Transparency is ensured through open days of procuratorates, the complaint mechanism against law- and discipline-breaching activities of the prosecution service, the mechanism to regulate legal practices, public assessment of non-prosecuted cases, and hearing of repeated appeals. All these measures have combined to promote the clean and fair enforcement of law by China's prosecution service.

IV Investigate cases of corruption in the prosecution service in accordance with law and discipline

It is a most direct and effective means to combat corruption by investigating cases of corruption and punishing offenders in accordance with law and discipline. China's prosecution service has made it one of its priorities to investigate law- and discipline-

breaching cases involving its personnel, especially those in leading positions. From 2008 to 2012, the supervision and discipline inspection departments within the prosecution service nationwide filed for investigation 883 cases involving 1101 people. Special inspections are conducted over the seizure, freezing, and treatment of the proceeds of cases directly field for investigation by the prosecution service and the long-term mechanism with standard procedures is continually improved. Typical cases are studied for preventive and educational purposes. Special inspections are also launched to protect peoples' legal rights, address prominent issues of wide public concern, and regulate law enforcement and investigation activities.

V Raise awareness through education and publicity

Education plays a fundamental role in fighting corruption and promoting clean governance. Over the years, China's prosecution service is devoted to developing a clean culture through awareness raising campaigns and educational activities. The Supreme People's Procuratorate has issued Implementation Guidelines on Integrity Education of Prosecution Service and organized touring exhibitions with a total attendance of 201,000 people, covering 87% of the country's prosecution service. Special educational initiatives are promoted to address underlying issues such as the special privilege mentality and the arbitrary work style. Painting and calligraphy competitions are held to promote integrity-related themes. The prosecution service nationwide and their families have submitted 14,876 pieces of works, of which 545 highly-rated pieces are exhibited. Other awareness-raising activities include running education bases, launching online education platforms, soliciting mottos and epigrams, and organizing speech contests and theatrical festivals to promote a culture that honors integrity and disgraces corruption.

B. Measures to Strengthen Integrity and Prevent Corruption in China's Prosecution Service

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