

Procuratorial Transparency: Legal Basis, Institutional Evolution, and the Practice of Chinese Procuratorial Reform

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ABSTRACT

The legal basis of procuratorial transparency stems from the principle of popular sovereignty and the right to freedom of speech under China's Constitution, corresponding to the right to know and the right to access information under international covenants. It serves as the core system for safeguarding citizen supervision and regulating the operation of procuratorial power. China's procuratorial transparency was officially initiated in 1998 and has undergone multiple rounds of regulatory improvements, gradually forming an institutional system centered on the disclosure of case information, with synergy between online and offline platforms. In 2014, a nationwide unified case information disclosure network was established. In 2021, the scope of disclosure was further expanded to achieve full coverage of the "four major prosecutorial functions," with enhanced privacy protection and data release. In practice, procuratorial transparency has achieved remarkable results in enhancing judicial transparency, protecting the rights of parties involved, and facilitating social oversight. At the same time, current challenges remain, including a relatively narrow scope and format of disclosure, as well as the absence of a right to remedy mechanism. In the future, China should adhere to the principle of "disclosure as the rule, non-disclosure as the exception," adopt an exception-list legislative model, maximize the disclosure of law enforcement and case-handling information, improve the right to remedy channels, and build a more standardized, efficient, and transparent procuratorial transparency system with Chinese characteristics.

KEYWORDS

Procuratorial Transparency; Institutional Evolution; Four Major Prosecutorial Functions; Legal Supervision.

1. INTRODUCTION

Judicial transparency is an important hallmark of a modern country governed by the rule of law, and also the institutional cornerstone for ensuring judicial fairness and enhancing judicial credibility. As a key component of judicial transparency, procuratorial transparency directly affects the transparency and regularity of the operation of procuratorial power, and concerns the effective realization of citizens' rights to know, to participate, and to supervise. Against the backdrop of the comprehensive advancement of the rule of law and the deepening reform of the judicial system, procuratorial organs promoting fairness through transparency and safeguarding integrity through openness has become an inherent requirement for the high-quality development of procuratorial work in the new era. China's procuratorial transparency has progressed from initial exploration to institutionalization, platform-based development, and full coverage, continuously expanding the scope of disclosure, innovating disclosure methods, and improving safeguard mechanisms, playing an important role in standardizing law enforcement, providing rights remedies, and facilitating social oversight. However, in practice,

issues remain, such as unclear disclosure standards, inadequate remedy channels, and insufficient quality and effectiveness of disclosure. Based on this, a systematic review of the legal basis, institutional evolution, and practical forms of procuratorial transparency, as well as an analysis of current dilemmas and improvement pathways, has significant theoretical and practical importance for building a procuratorial transparency system with Chinese characteristics and promoting the standardized and transparent operation of procuratorial power.

2. LEGAL BASIS AND NORMATIVE FOUNDATIONS OF PROCURATORIAL TRANSPARENCY

2.1. The Right-Based Origin at the Constitutional Level

In China, the disclosure of information by procuratorial organs derives from two aspects of the Constitution. First, the "people's rights provisions" of the Constitution. Article 2 of the Constitution stipulates: "All power in the People's Republic of China belongs to the people... The people administer state affairs and manage economic and cultural undertakings and social affairs through various channels and in various ways in accordance with the law." Article 3 stipulates: "The state administrative, judicial, and procuratorial organs are created by the people's congresses to which they are responsible and under whose supervision they operate." The people's "administration of state affairs" includes the affairs of procuratorial organs, and procuratorial organs should also "be responsible to the people and accept the people's supervision." The prerequisite for realizing these democratic rights of the people is that citizens must know "what the procuratorial organs are doing." Second, the "freedom of speech provision" in Article 35 of the Constitution, i.e., "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration." "Freedom of speech" in international rules includes "the freedom to seek, receive, and impart information and ideas." Only by obtaining information can citizens know what their speech is to express, and thus realize substantive freedom of speech. Therefore, citizens have the right to demand that the government disclose information, which is an inherent part of freedom of speech.

2.2. International Rules and the Legal Basis of the Right to Know

The basis of procuratorial transparency is the government's obligation to disclose information arising from citizens' right to know. So what kind of right is the right to know?

In the freedom of speech provisions of international covenants, such as Article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the content of freedom of speech includes not only the freedom to express but also three components: "the freedom to seek, receive, and impart information and ideas." The right to "seek and receive" information and ideas is essentially the right to know, i.e., the right to obtain information; while "imparting" information and ideas falls under freedom of expression. Complete freedom of speech should include both the right to know and the right to express.

The Atlanta Declaration on the Right to Know states: "The right to know is the foundation of human dignity, equality, and a just peace." "The right to know is a fundamental human right." Therefore, although the right to know originated from the right to freedom of speech, it has become an independent right in international covenants and the legislative practices of various countries because it has independent significance. This significance is articulated in the Atlanta Declaration on the Right to Know as: "the foundation of citizen participation, good governance, administrative efficiency, accountability and combating corruption, news media and investigative journalism, human development, social inclusion, and the realization of other socio-economic and civil-political rights."

The "right to know" is the right to know. Regarding the development of the right to know in relevant countries, the right to know corresponds to information disclosure and is a contribution of the American people. During the information disclosure legislation movement initiated by the press in the 1940s, a journalist named Kent Cooper first used the term "right to know" in a speech in 1945. In his speech, Cooper mentioned the information distortion and unwarranted suspicions among governments caused by the government's news controls during World War II, advocating replacing the "freedom of the press" provision in the Constitution with a new civil right of the "right to know." The term "right to know" gradually spread from the press to the legal community.[1] American scholars have divided the role of the right to know and government information disclosure into six aspects: First, meaningful participation in democratic processes requires participants to be informed. Second, it helps keep the government honest and worthy of voter participation. Third, openness also helps the government handle affairs better. Fourth, government information is publicly owned; unless disclosure would cause specific harm, information must be disclosed. Fifth, access to government information helps Americans improve their lives in many ways. Sixth, more information means more efficient resource allocation.[1]

In the United Kingdom, the Human Rights Act 1998 came fully into force on October 2, 2000. Even if not in all areas, it is likely to have a profound impact on most areas of civil and criminal law, including laws affecting the media. The purpose of the Act is described as "further enhancing" the implementation of most of the rights set out in the European Convention on Human Rights in UK law. The Act does not create new substantive rights under domestic law but makes existing European Convention on Human Rights rights more direct and relevant. The most important provision of the European Convention on Human Rights in relation to the media is Article 10 on freedom of speech, which includes "the freedom to receive and impart information and ideas without interference by public authority and regardless of frontiers." The media requires procuratorial organs to disclose information because the freedom of speech in this article includes "the freedom to receive and impart information and ideas." UK procuratorial organs are a department of the UK Home Office and must also comply with the Freedom of Information Act 2005.

From international rules and extraterritorial legislation, it can be seen that the essence of procuratorial transparency is government information disclosure, which is a governmental obligation arising from citizens' freedom of speech. Although the right to know originated from the right to freedom of speech, since the 1940s, the right to know has gradually become an independent right separate from freedom of speech. Therefore, it can also be said that the governmental obligation of procuratorial transparency arises from citizens' right to freedom of speech and the right to know. In the legislative system, procuratorial transparency is uniformly regulated by each country's Information Disclosure Act (or Freedom of Information Act). However, due to the particularity of procuratorial organs as law enforcement agencies, special regulations on information disclosure by procuratorial organs may be promulgated without violating the information disclosure act.

Normative Positioning of Procuratorial Transparency in China

China does not have an information disclosure act, but the Regulations of the People's Republic of China on Government Information Disclosure, adopted at the 165th Executive Meeting of the State Council on January 17, 2007, and effective as of May 1, 2008, is China's first administrative regulation on government information disclosure. However, the scope of information referred to in this regulation is "information produced or obtained by administrative organs in the course of performing their duties, which is recorded and preserved in certain forms." Therefore, China's procuratorial organs lack a legal basis for information disclosure. The reason is that, based on China's positioning of procuratorial organs, procuratorial organs are a special department within the "one government, two courts" system.

On the one hand, procuratorial organs are not judicial organs, so legislation and judicial interpretations concerning "trial openness" are not applicable. In fact, the rules on trial openness in international covenants and human rights rules also do not apply to procuratorial organs. The "judicial

nature" of procuratorial organs primarily refers to their objective duty and their role in safeguarding judicial fairness, but it cannot be considered that procuratorial organs are "neutral judicial organs." On the contrary, Article 10 of the United Nations Guidelines on the Role of Prosecutors (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, August 27 - September 7, 1990) requires that "the functions of prosecutors shall be strictly separated from judicial functions." Article 11 states: "Prosecutors shall play an active role in criminal proceedings, including instituting proceedings, and, in accordance with law or authorized by local practice, in investigating crime, supervising the lawfulness of investigations, supervising the enforcement of court judgments, and performing other functions as representatives of the public interest." From the perspective of international rules, although the "supervisory" role of prosecutors is mentioned, it is not stated that they are neutral judicial organs; on the contrary, as indicated in the United Nations Guidelines on the Role of Prosecutors, "the functions of prosecutors shall be strictly separated from judicial functions" is a prerequisite for supervision. Thus, this supervisory power is not a "neutral and detached" judicial function. On the other hand, China's procuratorial organs are also not appropriately positioned as administrative organs because such a positioning would prevent procuratorial organs from playing their role in supervising administrative organs, would undermine the legal supervision status of procuratorial organs under the distinctive Chinese political system, and would not be conducive to checks on power and supervision of power.

The report of the 18th National Congress of the Communist Party of China pointed out: "We should make government operations more open and standardized, improve openness in Party affairs, government affairs, judicial affairs, and operations in various other fields, and improve the systems for inquiry, accountability, economic responsibility auditing, resignation, and dismissal. We should strengthen oversight from within the Party, democratic oversight, legal oversight, and public opinion oversight, so that the people can supervise those in power, and power is exercised under sunlight." This has charted the course, clarified the goals and tasks, for promoting judicial openness, including procuratorial transparency, for the present and for some time to come. To implement the strategic plan of the 18th National Congress for comprehensively deepening reform, the Third Plenary Session of the 18th Central Committee studied several issues concerning comprehensively deepening reform. Regarding judicial openness, the Third Plenary Session of the 18th Central Committee decided: "Promote trial openness and procuratorial transparency, record and preserve complete court trial recordings. Enhance the reasoning in legal documents, promote the disclosure of effective court judgments. Strictly regulate procedures for commutation, parole, and release on medical parole, strengthen supervision system. Widely implement the system of people's assessors and people's supervisors, broaden the channels for the people to orderly participate in the judiciary." This provides important theoretical support for the further development of procuratorial transparency.

In response, the National Court Judicial Openness Work Promotion Conference emphasized that courts at all levels must thoroughly study and implement the spirit of the Third Plenary Session of the 18th Central Committee, unify thoughts and actions with the Party Central Committee's major decisions on comprehensively deepening reform, conscientiously perform the duties entrusted by the Constitution and laws, further improve judicial openness efforts, take the opportunity of promoting the construction of the three major platforms for judicial openness, continuously expand the scope and innovate the forms of judicial openness, making the three major platforms for judicial openness an important window to display the socialist rule of law civilization, an important means to safeguard the litigation rights of parties, and an important way to fulfill the social responsibility of courts, striving to let the people feel fairness and justice in every judicial case, and to ensure that the fruits of judicial reform benefit more people more fairly. To promote comprehensive and effective procuratorial transparency and fully implement the spirit of the 18th National Congress and its Third Plenary Session concerning procuratorial transparency, then Procurator-General Cao Jianming of the Supreme People's Procuratorate stated at the sixth "Procuratorial Open Day" event held by the Supreme People's Procuratorate that the principle of "disclosure as the rule, non-disclosure as the exception" should be adhered to, and that law enforcement bases, procedures, case-handling

processes, and law enforcement results should all be disclosed to society, continuously expanding the scope of disclosure.[2]Based on the disclosure principle articulated by Procurator-General Cao Jianming, combined with the aforementioned international covenants and legislation from other countries, the scope of China's procuratorial transparency should adhere to the principle of maximum disclosure, disclosing both the administrative content and the judicial content of procuratorial organs. Of course, this maximum disclosure is not absolute; while fully safeguarding the public's right to know, the standards between "disclosure" and "non-disclosure" must also be properly managed to ensure the sustainable and effective operation and development of procuratorial transparency in China.

China's procuratorial organs are national legal supervision organs and criminal law enforcement organs. To ensure that procuratorial organs consciously accept supervision by the people and from all sectors of society, and to ensure that procuratorial organs exercise justice, their procuratorial information should be disclosed to society. China's procuratorial organs have recognized this issue and creatively established their own system of procuratorial transparency to disclose procuratorial information to society, reflecting the importance that China's procuratorial organs attach to procuratorial democracy and their highly responsible spirit toward the people.

Procuratorial transparency practice has led procuratorial organs to explore a system of information disclosure by procuratorial organs with Chinese characteristics, based on their unique nature and functions. China's procuratorial transparency system, as an internal reform system of procuratorial organs, has achieved remarkable results. However, it should also be noted that as an important part of the national information disclosure system, the procuratorial transparency system is still incomplete and imperfect. Therefore, we should comply with and refer to international rules, draw on extraterritorial experience, and reform and improve the procuratorial transparency system.

3. THE INSTITUTIONAL EVOLUTION OF PROCURATORIAL TRANSPARENCY IN CHINA

3.1. Initiation and Initial Regulation (1998---2006)

From the perspective of the development of procuratorial transparency, it has been infused with new vitality and given new content along with the deepening of China's information disclosure. In October 1998, the Supreme People's Procuratorate issued the "Decision on Implementing 'Procuratorial Transparency' in National Procuratorial Organs," deploying procuratorial transparency work in procuratorial organs nationwide. Thereafter, the Supreme People's Procuratorate included content on procuratorial transparency in the annual key procuratorial work it issued. On January 4, 1999, the Supreme People's Procuratorate formulated the "Specific Implementation Measures for 'Procuratorial Transparency' by People's Procuratorates," requiring that procuratorial personnel must perform their duty to inform when carrying out their duties. On April 6, 1999, the Supreme People's Procuratorate issued the "Notice on Establishing a Regular Briefing System on Procuratorial Work," requiring provincial-level people's procuratorates to establish a spokesperson system. On March 5, 2001, the Public Prosecution Office of the Supreme People's Procuratorate issued the "Rules for Public Review of Cases Not Subject to Prosecution Handled by People's Procuratorates (Trial Implementation)," requiring public review of non-prosecution cases where there are significant disputes or that have a substantial social impact locally. In June 2006, the Supreme People's Procuratorate promulgated the "Opinions on Further Deepening 'Procuratorial Transparency' by People's Procuratorates," broadening the channels for the disclosure of procuratorial scope and improving the regular briefing and spokesperson systems. At the same time, in addition to relevant regulatory documents, the Supreme People's Procuratorate also incorporated the content of procuratorial transparency into the planning and operation of procuratorial reform as an important part thereof. In January 2000, Part 5, Article 23, of the first "Three-Year Implementation Plan for Procuratorial Reform," titled "Reforming Internal and External Supervision and Restriction Mechanisms of Procuratorial Organs to Ensure

Fairness, Integrity, and Efficiency," provided for "further deepening 'procuratorial transparency' and continuously expanding the scope, methods, and channels of 'procuratorial transparency'." The second reform plan, the "Three-Year Implementation Plan of the Supreme People's Procuratorate for Further Deepening Procuratorial Reform," adopted on August 24, 2005, pointed out in Article 16 the need to "further deepen procuratorial transparency," comprehensively enhance the legal supervision capacity of procuratorial organs, and develop and improve the socialist procuratorial system with Chinese characteristics. In March 2009, the Supreme People's Procuratorate issued the "Implementation Opinions on Implementing the 'Opinions of the Central Political and Legal Affairs Commission on Several Issues Concerning Deepening Judicial System and Working Mechanism Reform' - Work Plan for Deepening Procuratorial Reform 2009-2012," the third procuratorial reform plan, explicitly requiring that tasks such as optimizing the allocation of procuratorial powers, reforming and improving the scope, procedures, and measures of legal supervision, strengthening legal supervision over litigation activities, effectively safeguarding judicial fairness, and reforming and improving the system for people's procuratorates to accept supervision and restrictions, standardizing law enforcement behavior, and ensuring the lawful and fair exercise of procuratorial powers, including content on procuratorial transparency, be accomplished as important tasks of procuratorial reform.

3.2. Deepening Reform and Mechanism Improvement (2007---2013)

On December 29, 2011, the 11th Procuratorial Committee of the Supreme People's Procuratorate adopted the "Procedures for Public Review of Criminal Appeal Cases by People's Procuratorates," explicitly stipulating that public review of criminal appeal cases where there are significant disputes over facts or application of law, or that have substantial social impact, should primarily be conducted through hearings. On March 22, 2013, the Supreme People's Procuratorate issued the "Opinions of the Supreme People's Procuratorate on Strengthening and Improving Criminal Appeal Procuratorial Work," which, on the basis of strictly implementing the public review system for criminal appeal cases, comprehensively used various forms to increase the intensity of public review, emphasized the organic integration of the public review system with the people's supervisor system and the mass work system, and improved the level and effectiveness of public review. On December 10, 2013, the Supreme People's Procuratorate, in the publicly released "Construction Plan for Basic-Level People's Procuratorates 2014-2018," proposed to deeply advance procuratorial transparency at basic-level people's procuratorates, refine the scope, targets, timing, methods, and requirements of law enforcement and case-handling disclosure, and improve the systems for proactive disclosure and disclosure upon application. Except where confidentiality is required by law, law enforcement bases, procedures, case-handling processes, and final legal documents of procuratorial organs shall all be disclosed to society.

3.3. Platform-Based and Full Disclosure (2014---2021)

The "Provisions on the Disclosure of Case Information by People's Procuratorates (Trial Implementation)" (adopted at the 24th Session of the 12th Procuratorial Committee of the Supreme People's Procuratorate on June 20, 2014), which came into trial effect on October 1, 2014, represents an important achievement of China's comprehensive deepening of procuratorial reform after the Third Plenary Session of the 18th Central Committee. The Provisions consist of 6 chapters and 28 articles, divided into six parts: General Provisions, Inquiry of Case Procedural Information, Release of Important Case Information, Disclosure of Legal Documents, Supervision and Safeguards, and Supplementary Provisions. The main content covers the comprehensive implementation of online inquiry of case procedural information, the improvement of the mechanism for releasing important case information, and the enhancement of the disclosure of legal documents. These Provisions, formulated by the Supreme People's Procuratorate on the basis of a comprehensive summary of pilot experience and extensive consultation, are the most comprehensive document to date on the content

of procuratorial transparency, and they will surely lead procuratorial transparency into an entirely new historical period.

On August 19, 2021, the Supreme People's Procuratorate issued the "Provisions on the Disclosure of Case Information by People's Procuratorates," further expanding the scope of case information that procuratorial organs can disclose. The Provisions clarify that, on the basis of expanding the inquiry of case procedural information upon application by parties, their legal representatives, close relatives, defenders, agents ad litem, and other subjects, for certain legal documents that procuratorial organs have already delivered to parties in accordance with legal provisions, such as 10 types of legal documents including indictments, protest documents, non-prosecution decisions, parties may also inquire with the procuratorate in accordance with procedures. On the basis of the original proactive disclosure by procuratorial organs of information related to criminal cases to society, the Provisions added provisions for the disclosure to society of information concerning cases of civil procuratorate, administrative procuratorate, and public interest litigation that are highly concerning and have significant impact, achieving full coverage of proactive disclosure to society of case handling in the "four major prosecutorial functions" of procuratorial organs.

The "Provisions on the Disclosure of Case Information by People's Procuratorates" also expanded the types of legal documents disclosed. On the basis of the original types of documents disclosed, the types of legal documents disclosed were expanded to include criminal case indictments, protest documents, non-prosecution decisions, criminal appeal result notices; civil procuratorial legal documents such as civil protest documents, retrial procuratorial recommendations, decisions not to support supervision applications, review decisions, and decisions to terminate review; administrative procuratorial legal documents such as administrative protest documents, retrial procuratorial recommendations, decisions not to support supervision applications, and decisions to terminate review; and civil public interest litigation indictments and administrative public interest litigation indictments.

While striving to strengthen the disclosure of case information, the "Provisions on the Disclosure of Case Information by People's Procuratorates" also placed greater emphasis on the protection of the privacy rights of the people involved in cases, and emphasized: "Case information involving crimes against minors generally shall not be disclosed; if disclosure is truly necessary, relevant information shall be shielded or anonymized in accordance with the law." For the information of parties and other litigation participants involved in disclosed legal documents, the Provisions set strict standards for anonymization and added a "document shielding" clause, refining the content of shielding to effectively prevent negative impacts on parties and other litigation participants due to disclosure.

The "Provisions on the Disclosure of Case Information by People's Procuratorates" added a new chapter, "Release of Operational Data," clarifying that data information of procuratorial organs shall be proactively released to society through multiple channels and methods.

The above provisions are of great significance for further regulating the disclosure of case information by procuratorial organs, effectively enhancing the transparency of judicial case handling by procuratorial organs, and safeguarding the people's rights to know, participate, supervise, and privacy.

4. PRACTICAL CARRIERS AND OPERATIONAL MODELS OF PROCURATORIAL TRANSPARENCY

4.1. Media Disclosure and News Release Mechanism

From the perspective of the development of disclosure to the mass media, Article 3 of the October 1998 "Decision on Implementing 'Procuratorial Transparency' in National Procuratorial Organs" required "the publication and promotion of the specific content of 'procuratorial transparency' through news media such as newspapers, radio, and television." Articles 2 and 3 of the January 1999 "Specific

Implementation Measures for 'Procuratorial Transparency' by People's Procuratorates" stipulated: "People's procuratorates at all levels shall periodically or irregularly hold press conferences or information briefings, or through announcements, newspapers, radio, television, and other news media, disclose to society the situation of people's procuratorates performing their legal supervision duties; the periodic achievements of procuratorial work; the situation concerning the implementation of 'procuratorial transparency' content; the work plans of the Supreme People's Procuratorate, judicial interpretations related to procuratorial work, and other regulatory documents; major activities, typical cases, advanced collectives, and advanced individuals in people's procuratorates at all levels." "Where major criminal cases or job-related crime cases of substantial social impact and public concern are handled, after arrest or initiation of prosecution, timely reporting shall be made."

Article 10 of the March 2001 "Rules for Public Review of Cases Not Subject to Prosecution Handled by People's Procuratorates (Trial Implementation)" stipulated: "During public review of non-prosecution cases, citizens shall be permitted to observe; representatives of people's congresses, members of the Chinese People's Political Consultative Conference, and specially invited procuratorial supervisors may be invited to participate; based on the needs of the case or at the request of the parties, relevant experts and persons related to the case may be invited; with the permission of the people's procuratorate, journalists may observe and interview." Articles 4 and 5 of the June 2006 "Opinions on Further Deepening 'Procuratorial Transparency' by People's Procuratorates" stipulated: "People's procuratorates at all levels shall, in addition to adopting traditional forms such as setting up display boards, producing wall charts, printing booklets, carrying out publicity day and publicity week activities, holding press conferences or information briefings, and publicizing the content of procuratorial transparency through newspapers, radio, television, and other news media, also attach importance to and make full use of modern information technology means to continuously broaden disclosure channels." "Improve the regular briefing and spokesperson system. People's procuratorates at all levels shall improve the regular briefing system on procuratorial work; people's procuratorates at the provincial level and above shall establish a spokesperson system, train spokespersons, and give full play to the role of spokespersons." In March 2010, the Supreme People's Procuratorate issued the "Procuratorial Organs Press Release System," which regulated the content, methods, and organization of press releases, clarifying that procuratorial organs implement a press release system combining periodic press releases and daily press releases. Periodic press conferences are held in principle once every quarter, and daily press releases are held as needed. The refinement of the spokesperson system provided a benchmark for practical operation, increased the predictability of information issued by news media organizations, and was a major initiative to facilitate supervision of procuratorial work by the public and news media.

In July 2014, the Supreme People's Procuratorate issued the "Implementation Measures for Press Conferences of the Supreme People's Procuratorate" and the "Interim Measures for the Release of Information on Major Job-Related Crime Cases by the Supreme People's Procuratorate" to standardize and institutionalize press conference work. The Implementation Measures clarify that the Supreme People's Procuratorate shall establish a spokesperson, who shall preside over press conferences of the Supreme People's Procuratorate, release major news matters of the procuratorial organs to the public on behalf of the Supreme People's Procuratorate, accept media interviews, or release news. The forms of press conferences mainly include regular press conferences and special-topic press conferences. Regular press conferences are held in principle once a month, primarily to report to the public on the work of procuratorial organs in investigating and preventing job-related crimes, approval of arrests, prosecution, litigation supervision, and to release major work plans, special actions, important meetings, important judicial interpretations, and regulatory documents of procuratorial organs. Special-topic press conferences are held irregularly as needed, to respond to major sensitive cases and incidents of public concern.

Thus, China's procuratorial organs attach great importance to the supervision of people's supervisors and cooperation with the media. Procuratorial transparency is disclosure to society, as well as

disclosure to specific targets and news media. The nature of China's current procuratorial transparency is a "procuratorial organ information disclosure system with Chinese characteristics" proactively promoted by procuratorial organs in the absence of information disclosure laws applicable to procuratorial organs. The disclosure of information by procuratorial organs to the media is one way of information disclosure by procuratorial organs; on the issue of seeking and obtaining information from procuratorial organs, the media, as representatives of citizens, have the same rights as ordinary citizens.

4.2. Online Platforms and Information Technology Construction

From the perspective of the construction of online platforms, China initiated the information technology construction of procuratorial organs as early as 2000. After seven years of construction, by October 2007, the basic network platform for the application of information technology in national procuratorial organs had basically taken shape: computer local area networks had been built in 32 provincial-level branches, 347 prefecture-level branches, and 2,323 county-level branches of procuratorates nationwide, and the Internet portal website of the Supreme People's Procuratorate had been revamped.[3]

Another seven years later, to implement the Party Central Committee's requirement to intensify the promotion of judicial openness, and to give full play to the advantages of modern information technology in intelligence, standardization, and convenience, the Supreme People's Procuratorate established a unified "People's Procuratorate Case Information Disclosure Network" relying on the national e-government network. The website has been launched in all 31 provinces, autonomous regions, and municipalities directly under the central government in mainland China, and was successively put into operation from October 1, 2014. People's procuratorates at all levels will handle work related to case information disclosure on the People's Procuratorate Case Information Disclosure Network.

The website includes four major platforms: a case procedural information inquiry platform, an important case information release platform, a legal document disclosure platform, and a defense and agency appointment reservation platform, providing strong technical support for comprehensive case information disclosure. Disclosed case information is extracted from the national unified business application system of procuratorial organs, with real-time data updates to ensure comprehensive and timely information disclosure. Procuratorial organs at all levels uniformly use this website for case information disclosure, and the information from more than 3,000 procuratorates is aggregated together, producing a significant scale aggregation effect. Users can search using keywords, which is very convenient. As of noon on October 16, 2014, procuratorial organs nationwide had posted 197,079 items of case procedural information, 8,301 items of important case information, and 15,528 legal documents on the website, which was operating smoothly.[4]

In 2013, the Rule of Law Index Innovation Project Team of the Institute of Law, Chinese Academy of Social Sciences conducted research and evaluation on the procuratorial transparency situation of 81 people's procuratorates, including the Supreme People's Procuratorate, people's procuratorates of 31 provinces, autonomous regions, and municipalities directly under the central government, and people's procuratorates of 49 larger cities. Among all evaluated procuratorates, the Supreme People's Procuratorate ranked first; among provincial-level procuratorates, Chongqing Procuratorate took the top spot; among larger city procuratorates, Shantou Procuratorate ranked first.

The Rule of Law Blue Paper pointed out that procuratorial information disclosure is developing in depth. Traditional procuratorial transparency mainly involved the release of general, static content such as relevant laws and regulations, judicial interpretations, procuratorial functions, and procuratorial guidelines. In 2013, more and more procuratorates, starting from the needs of ordinary parties and the public, highlighted the disclosure of substantive content such as law enforcement and case-handling activities, case-handling processes, and case-handling results. Among them, some

procuratorates actively carried out online case information disclosure and case information inquiry, which played a significant role in safeguarding the legitimate rights and interests of parties, facilitating lawyers' practice, and supervising procuratorial organs to handle cases in accordance with the law. Some procuratorates proactively published case acceptance information, arrest information, and public prosecution court appearance information online, or provided dedicated case inquiry systems, opening up new areas for procuratorial information disclosure.

Echoing the publication of judgments by courts, more and more procuratorates have published typical indictments. In 2012, only one people's procuratorate in Zhouzhou (sic) city among all evaluated entities published indictments; the 2013 evaluation results showed that procuratorates in Hunan Province, Shantou City, Zhengzhou City, among others, had published indictments online, and some procuratorates had also published sentencing recommendations online. The disclosure of various types of procuratorial legal documents is gradually becoming a trend.

However, the Rule of Law Blue Paper also noted that procuratorial transparency has not fully met social needs. Problems such as unreasonable website column settings and mismatches between columns and content were common, seriously affecting the public's use of procuratorate websites; regarding the online disclosure of public review activities and results of criminal non-prosecution cases, not even the first step had been taken, and the disclosure of procuratorial recommendations and procuratorial opinions was also in its infancy, with only a few individual procuratorates conducting pilot projects; although some procuratorates disclosed the annual budget and "three public" expenditures for 2013, as well as final account information for 2012, the problem of untimely disclosure was also prominent; the issue of inaccurate disclosed information was highlighted. As of early December 2013, many procuratorates' official websites had not yet updated relevant procuratorial guidelines based on the Criminal Procedure Law and the Civil Procedure Law revised in 2012.

4.3. Offline Disclosure and Convenience Service System

Procurator-General Cao Jianming of the Supreme People's Procuratorate gave a comprehensive summary of procuratorial transparency in his "Report on the Standardization of Judicial Conduct by People's Procuratorates" at the 11th Session of the Standing Committee of the 12th National People's Congress on October 29, 2014. He pointed out: Judicial openness is an important way to promote judicial standardization. Procuratorial organs have actively adapted to the social development trend of openness, transparency, and information technology, enhanced the awareness of proactive disclosure and proactive acceptance of supervision, continuously expanded the depth and breadth of disclosure, and promoted standardized justice through transparency.

First, expand the scope of procuratorial transparency. In 2006, the Supreme People's Procuratorate formulated opinions on further deepening procuratorial transparency, and in October 2013, it deployed pilot projects for deepening procuratorial transparency in some procuratorates of 10 provinces and cities, actively promoting the transformation from selective disclosure to comprehensive disclosure of everything that should be disclosed, and from disclosure of functions and duties to disclosure centered on case information. In September 2014, it promulgated the Provisions on the Disclosure of Case Information by People's Procuratorates, launched the People's Procuratorate Case Information Disclosure Network, and officially operated a unified case information disclosure system for the national procuratorial organs, which has now established four major platforms. The first is the case procedural information inquiry platform. The cause of action, case-handling time limit, case-handling progress, compulsory measures, and other information of handled cases are provided online for parties, their legal representatives, close relatives, defenders, and others to inquire. The second is the legal document disclosure platform. Indictments for cases where the court has made an effective judgment, criminal protest documents, non-prosecution decisions, criminal appeal review decisions, and other documents have been disclosed online. The

third is the important case information release platform. The handling of job-related crime cases and criminal cases with substantial social impact, including the identity of the suspect, suspected charges, the litigation stage of the case, as well as typical cases that have been concluded, is disclosed to society in a timely manner. The fourth is the defense and agency appointment reservation platform. Defenders and agents ad litem can submit applications through this platform for reviewing case files, meeting with clients, collecting and obtaining evidence materials, providing evidence materials, requesting to hear opinions, applying for changes of compulsory measures, and the relevant procuratorate shall process and reply within the statutory time limit.

Second, innovate the methods of procuratorial transparency. Activities such as Complaint Reporting Publicity Week, Procurator-General Reception Day, and Procuratorial Open Day are widely carried out to facilitate face-to-face communication with the public. A system of regular press conferences and special-topic press conferences is established to strengthen the release of important information and policy interpretation. The construction of portal websites for the four levels of procuratorates is comprehensively advanced, with the use of emerging communication tools being learned to expand interactive platforms with the public. The Supreme People's Procuratorate has established an online press office and fully launched official Weibo, WeChat, and news client subscriptions, which rose from over 1.2 million in early April 2014 to 12.67 million at the end of September. For cases where there is significant dispute over facts or application of law, or those with substantial local impact, concerning proposed non-prosecution or appeals against the handling decisions of procuratorial organs, public review and responses are conducted.

Third, standardize procuratorial transparency venues. The construction of unified procuratorial transparency halls is advanced, integrating work such as procuratorial publicity, legal consultation, acceptance of complaints, reports and appeals, lawyer reception, video reception, case information inquiry, and the 12309 platform, providing "one-stop" services. At the same time, these functions are integrated into the procuratorial organs' portal websites to achieve synchronous online and offline services, facilitating public inquiry and supervision. The Supreme People's Procuratorate is in the process of formulating construction plans and management rules for procuratorial transparency halls, which will soon be issued. This is the most comprehensive and authoritative summary by the procuratorial organs themselves of procuratorial transparency. It can be seen that although the achievements in procuratorial transparency are remarkable, the problems are also obvious. Further advancement of procuratorial transparency remains a long and arduous task.

5. CURRENT DILEMMAS AND PROBLEMS IN PROCURATORIAL TRANSPARENCY

5.1. Single Form and Content of Disclosure

We have entered an era where we can obtain procuratorial information anytime, anywhere. This is related not only to the development of communication and internet technologies but also to the admirable determination and courage of the procuratorial organs in promoting procuratorial transparency. They have responded to the question of "whether and how to disclose" procuratorial information through their actions, advancing procuratorial transparency to an institutionalized and standardized level. Of course, China's procuratorial transparency reform is still "crossing the river by feeling the stones," at a stage of exploring and establishing methods of procuratorial transparency suitable for China's national conditions. As the saying goes, "If you want to do a good job, you must first sharpen your tools." We must firmly establish problem awareness, use a "magnifying glass" to deeply explore the problems in China's procuratorial transparency reform, in order to provide guidance for future reform.

First, the establishment of rules and systems is relatively simple. Normative documents such as the "Decision on Implementing 'Procuratorial Transparency' in National Procuratorial Organs" and the

"Specific Implementation Measures for 'Procuratorial Transparency' by People's Procuratorates" primarily adopt an enumeration method to determine the scope of procuratorial transparency, i.e., listing item by item the procuratorial information that should be disclosed. The scope of procuratorial information is extremely broad, and the enumeration method is difficult to exhaust all matters that should be disclosed to achieve the goal of maximum disclosure. Moreover, to fill the gaps left by the enumeration method, procuratorial organs need to continuously issue new regulations, directly resulting in low disclosure efficiency.

Second, the scope of disclosure is relatively narrow. Currently, the scope of procuratorial transparency mainly covers the functions and powers of procuratorial organs, law enforcement bases, activity principles, case filing scope, case filing standards, the rights and obligations of litigation participants, etc. The above information falls under procuratorial affairs information and can be released to the public in one go. More importantly, these matters have already been clarified in legal documents such as the Criminal Procedure Law, the Interpretation of the Supreme People's Court on the Application of the Criminal Procedure Law, and the People's Procuratorate Rules of Criminal Procedure (Trial Implementation). The Supreme People's Procuratorate has merely categorized the above matters for the convenience of public inquiry. The scope of procuratorial information is obviously greater than that of procuratorial affairs information. If the reform measures for procuratorial transparency continue to hover around procuratorial affairs information, the reform process will not achieve significant breakthroughs.

5.2. Absence of a Right to Remedy Mechanism

In continental law systems, rights remedies are known as the "law of rights," meaning "no remedy, no right." The importance of rights remedies is placed at an unprecedented level. In China, rights remedies can be divided into administrative remedies and judicial remedies. The prerequisite for a "right" to be subject to administrative or judicial remedy is that it has been recognized by law and included within the scope of remedy. Has the right to know in procuratorial matters been recognized by law and included within the scope of remedy? Clearly not.

The Regulations on Government Information Disclosure, which came into effect on May 1, 2008, is the only regulation in China regulating information disclosure. It requires that the target of disclosure is information produced or obtained by administrative organs in the course of performing their duties, which is recorded and preserved in certain forms. Procuratorial organs and governments are both responsible to the people's congresses, and there is no subordinate relationship between them. The Regulations on Government Information Disclosure cannot serve as the legal basis for binding procuratorial organs to disclose procuratorial information. The Administrative Reconsideration Law and the Administrative Procedure Law cannot overstep their bounds to provide remedies for the right to know in procuratorial matters. It is worth noting that the "Opinions on Further Deepening 'Procuratorial Transparency' by People's Procuratorates," issued in June 2006, proposed that serious violations of the provisions on "procuratorial transparency" shall be dealt with seriously in accordance with the "Regulations on Disciplinary Action Against Procuratorial Personnel (Trial Implementation)" (promulgated by the Supreme People's Procuratorate on August 10, 2004). The scope of application of the "Regulations on Disciplinary Action Against Procuratorial Personnel (Trial Implementation)" includes 10 major categories and 81 subcategories of situations, including violations of political discipline, violations of organizational and personnel discipline, violations of case-handling discipline, violations of integrity and self-discipline in procuratorial work, violations of financial discipline, dereliction of duty, etc. The provisions applicable to procuratorial transparency are mainly those concerning dereliction of duty, and the prerequisite for application is the occurrence of a miscarriage of justice or substantial losses to the parties. China has not yet granted the right to administrative or judicial remedy to those entitled to the right to know in procuratorial matters. The exploratory use of regulatory documents by procuratorial organs to restrict the behavior of procuratorial personnel to protect the public's right to know in procuratorial matters cannot be

completely negated; this model may even provide reference experience for future legislation. However, the "Regulations on Disciplinary Action Against Procuratorial Personnel (Trial Implementation)" are internal management rules that primarily restrict the behavior of procuratorial personnel, and the threshold for application is indeed relatively high. The possibility of causing a miscarriage of justice or substantial losses to the parties due to delayed disclosure of procuratorial information is relatively low. Therefore, the probability of application is small.

Article 14, paragraph 2, of the Criminal Procedure Law stipulates: "Litigation participants have the right to file complaints against acts by judicial personnel, procuratorial personnel, and investigators that infringe upon citizens' litigation rights or subject them to personal indignities." In terms of rights subjects, the Criminal Procedure Law limits the subject entitled to file complaints to litigation participants, whereas the regulatory documents of procuratorial organs also include the general public as subjects entitled to the right to know in procuratorial matters. In terms of the scope of rights, the Criminal Procedure Law sporadically lists some litigation rights enjoyed by litigation participants, for example, Article 73, paragraph 2, of the Criminal Procedure Law stipulates: "Where residential surveillance is imposed at a designated location, except where notification is impossible, the family members of the person under surveillance shall be notified within 24 hours after the enforcement of residential surveillance." In addition to the information required to be disclosed by higher-level laws, the regulatory documents of procuratorial organs also grant the public the right to know other substantive information concerning procuratorial work. Therefore, according to the provisions of the Criminal Procedure Law, the right to know procuratorial information of some subjects in China still cannot be remedied, and the procuratorial transparency remedy channels remain relatively scarce.

6. PATHWAYS FOR REFORM AND IMPROVEMENT OF PROCURATORIAL TRANSPARENCY IN CHINA

6.1. Scope of Disclosure: Maximization and Diversification

Diversifying and maximizing the implementation of procuratorial transparency aims to achieve the goal of disclosing procuratorial information to the maximum extent possible. Currently, procuratorial organs have implemented e-procuratorial work and innovated channels for the disclosure of procuratorial information through institutional openness forms such as hiring people's supervisors and launching Procuratorial Open Days. Therefore, the task of diversifying and maximizing procuratorial transparency is essentially how to broaden the scope of procuratorial information that can be disclosed.

First, diversification of legislative techniques. The procuratorial transparency documents formulated by the Supreme People's Procuratorate mainly adopt an enumeration form, listing item by item the procuratorial information that may be disclosed, which cannot exhaust the scope of information that should be disclosed. International rules and extraterritorial legislation mainly adopt an exception approach to exclude information that cannot be disclosed, thus determining the scope of information that can be disclosed. For example, Part 2 "Exempt Information" (Articles 21 to 44) of the UK Freedom of Information Act provides for 25 categories of exempt information, among which the seventh, eighth, and seventeenth items relate to procuratorial information. These three items related to procuratorial information, according to the Freedom of Information Act, fall under "conditionally exempt information." Whether such information is disclosed requires the public body to weigh the impact on the public interest. If it can be demonstrated that disclosure of the information would better serve the public interest than keeping it confidential, it may be disclosed; otherwise, it cannot be disclosed.[5] China's information disclosure legislation should adopt more "exception" approaches. At the same time, legislation should also specify terms frequently used in regulatory documents such as "state secrets" and "personal privacy" to avoid abuse due to excessive discretion.

Second, maximization of disclosure content. Procuratorial information is mainly divided into procuratorial affairs information and procuratorial law enforcement information. Currently, the procuratorial information disclosed by procuratorial organs is concentrated on procuratorial affairs information. The focus of future reform should be to increase the disclosure of procuratorial law enforcement information. Item 11 of the "Construction Plan for Basic-Level People's Procuratorates 2014-2018" states: "Deeply advance procuratorial transparency work. Refine the content, objects, timing, methods, and requirements of law enforcement and case-handling disclosure, improve the systems for proactive disclosure and disclosure upon application. Except where confidentiality is required by law, law enforcement bases, procedures, case-handling processes, and final legal documents of procuratorial organs shall all be disclosed to society." The final legal documents of procuratorial organs are the most important type of procuratorial law enforcement information and procuratorial litigation information. The Supreme People's Procuratorate has already included them within the scope of disclosure. In the process of policy implementation, procuratorial organs at all levels should no longer refuse applicants with reasons such as "the case is still being handled" or "the document involves secrets." In fact, except for self-investigated cases, the cases handled by procuratorial organs all come from public security organs. At the stages of investigation, transfer for review and prosecution, etc., public security organs have already disclosed law enforcement information to society or specific subjects in accordance with the "Provisions on Disclosure of Law Enforcement Information by Public Security Organs." Procuratorial organs need not continue to treat relevant law enforcement information as secrets; as long as there is a legal basis, they should disclose procuratorial law enforcement information ex officio or upon application.

6.2. Rights Protection: Improving Remedy Channels

In extraterritorial jurisdictions, criminal law enforcement information is not non-justiciable. Whether procuratorial information should be disclosed can be determined through the review of relevant authorities. For example, the United Kingdom has established an Information Commissioner and Information Tribunal system;^[6] the United States has established an administrative reconsideration and administrative litigation system.^[7] The premise for the implementation of the aforementioned two types of systems is the regulation of the Freedom of Information Act. Due to the lack of legal basis, China has not created an Information Commissioner and Information Tribunal system. Administrative reconsideration and administrative litigation only address specific administrative acts that infringe upon citizens' personal rights and property rights. China's procuratorial organs are not administrative organs; their actions are judicial acts, and thus cannot be subject to administrative litigation.

7. CONCLUSION

To realize the right to know procuratorial information of the public and specific targets, should China also establish relevant systems to provide remedies for infringed rights of know? After all, where legal texts roughly set out methods of liability without granting parties rights remedy pathways, such rights remain somewhat "pale." In the future, China should enact a freedom of information act to provide a legal basis for remedying the right to know in procuratorial matters, which would be the best option. Currently, China can strengthen existing systems and enhance the remedy intensity for the right to know in procuratorial matters: First, when procuratorial organs refuse to disclose procuratorial affairs information, the right holder can protect their legitimate rights and interests through reconsideration and review procedures; second, when procuratorial organs refuse to disclose procuratorial law enforcement information, the right holder can protect the right to know by leveraging the exclusion of illegally obtained evidence procedures and evidence correction procedures.

CONFLICTS OF INTEREST

The authors declare that they have no conflict of interest.

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REFERENCES

- [1] Thomas, S. (2002). The good, the bad, and the ugly: E-government and the people's right to know. *Communication*, 3, 68–74.
- [2] Cao, J. M. (2013, July 1). Procuratorial transparency is the principle, non-disclosure is the exception. Xinhua Net. <https://www.chinanews.com.cn/fz/2013/07-01/4986868.shtml>
- [3] Du, M. (2007, October 17). The basic network platform for information technology application in national procuratorial organs has taken shape. *China Court News*. <https://www.chinacourt.cn/article/detail/2007/10/id/270647.shtml>
- [4] Gao, X. H. (2014, October 17). The “People's Procuratorate Case Information Disclosure Network” officially launched and operated. Supreme People's Procuratorate Official Website. https://www.spp.gov.cn/spp/zd gz/201410/t20141017_82137.shtml
- [5] Tang, D. Z. (2006). Comparative analysis of freedom of government information acts. *National Taiwan University Law Journal*, 6, 37–115.
- [6] Mendel, T. (2011). *Freedom of information: A comparative legal survey* (G. W. X., Trans.). Social Sciences Academic Press.
- [7] Liu, J. (2005). *The right to know and information disclosure act*. Tsinghua University Press.