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## **THE SUPREME PEOPLE'S COURT OF CHINA IN THE PROCESS OF JUDICIAL REFORM**

China's 20-year judicial reform introduced tremendous changes in the role of the Supreme People's Court of China (SPC). During this period the SPC underwent two major transitions. It has evolved into a designer of the judicial system from the traditional role of a dispute solver. In the meantime, it also shifted its position from a passive implementer of laws and policies into an active public policy maker.

### **1. HISTORICAL FUNCTIONS OF SPC**

As the Constitution of the People's Republic of China puts it, "the SPC is the highest judicial organ. The SPC supervises the administration of justice by the people's courts at various local levels and by the special people's courts. The people's courts at higher levels supervise the administration of justice by those at lower levels".<sup>1</sup>

In its early stage, the SPC functioned as an adjudicator of major criminal cases and civil cases involving economic or marital disputes, and played almost the same role as the local courts. The "political" side of the SPC by then reminded people that it was still the "supreme" court of the nation. It led some so-called "hard strike" nationwide operations in which violent crimes posing a severe threat to people's personal safety as well as economic crimes were tried. In the meantime, the SPC introduced a set of rules regarding the judiciary related public policy.

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<sup>1</sup> Constitution of the People's Republic of China, § 127 (2004).

## 2. TRANSITIONS OF THE SPC'S ROLE IN THE JUDICIAL REFORM PROCESS

In the late 1980s, China started the reform of the civil proceedings (the litigious mode) aimed at strengthening the function of courtroom trial and constructing a system of advocacy and professionalisation of judges.<sup>2</sup> The first *Guideline of the 5-Year Reform programme of the People's Court* issued by the SPC in 1999 set trial mode's revolution as a major goal. Under the *Guideline*, eleven out of thirty-nine reform goals concerned this issue. As a result of the reform, the Chinese litigious proceedings relinquished inquisitorial elements and followed the modern pattern of adversarial proceedings.

Constitutional scholar Paul Freund once stated: "The Court should never be influenced by the weather of the day but inevitably they will be influenced by the climate of the era".<sup>3</sup> In the process of judicial reform in China, the role of the SPC has kept changing, and now is considered as a "pusher" of social justice and protector and balancer of social values, rather than an institution whose main task is to handle lawsuits; its judicial philosophies have also changed, from instrumental rationality to substantive rationality. This transition process underwent two phases. In the first phase, the main function of the SPC shifted from "the state apparatus for fighting against crimes"<sup>4</sup> in the 1980s to "protector of economic growth" in the 1990s;<sup>5</sup> in the second phase, the SPC gradually replaced its central value from pursuing "justness and efficiency"<sup>6</sup> in the early 2000s to seeking "judicial justice" in 2014.<sup>7</sup> After two decades of judicial reform, China's central mission is finally connected with pursuing judicial independence and judicial justice, and the operational structure of power within the SPC has undergone a series of transformations. This movement, primarily a passive response to political and judicial reform of the system, also encompasses active self-adjustments and innovations initiated by the SPC itself.

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<sup>2</sup> *Judicial Reform of China*, the State Council Information Office of the People's Republic of China, Oct. 2012.

<sup>3</sup> John Hockenberry (Sep. 16th, 2013), Interview with Supreme Court Justice Ruth Bader Ginsburg, see <http://www.thetakeaway.org/story/transcript-interview-justice-ruth-bader-ginsburg/> (accessed: May 19th, 2014).

<sup>4</sup> *Working Report of Supreme People's Court 1984*, People's Daily, Page 2, June 7th, 1984.

<sup>5</sup> *Working Report of Supreme People's Court 1993*, People's Daily, Page 2, Apr. 6th, 1993.

<sup>6</sup> *Working Report of Supreme People's Court 2005*, see [http://www.court.gov.cn/qwfb/gzbg/201003/t20100310\\_2631.htm](http://www.court.gov.cn/qwfb/gzbg/201003/t20100310_2631.htm) (sccessed: May 19th, 2014).

<sup>7</sup> *Working Report of Supreme People's Court 2014*, see [http://www.china.com.cn/news/2014lianghui/2014-03/17/content\\_31811880.htm](http://www.china.com.cn/news/2014lianghui/2014-03/17/content_31811880.htm) (accessed: May 19th, 2014).

## 2.1. FROM TRADITIONAL DISPUTE SOLVER TO DEVELOPER AND REFORMER OF THE JUDICIAL SYSTEM

Adjudicating cases accounted for a large part of the SPC's daily activity when it was initially established in the 1950s and 1960s. The judicial interpretations (a kind of legal documents issued by the SPC or the Supreme People's Prosecutor Office to explain how the law should be comprehended and applied, usually being considered as law in China) that the SPC came up with were mainly replies to specific questions about application of laws in individual cases handled by lower-level courts. This was the traditional and inherent trial function of the court; it was also a prompt answer to the urgent call for rebuilding social order in the founding period of the People's Republic of China. When a complete and hierarchical court system had been set up and lower-level courts were capable of handling most of the cases, the SPC's role of performing daily adjudication work just as any other ordinary local court needed to be reconsidered.

The change of local weather depends on adjusting to regional climate in a broader sense. Similarly, a well-established judicial system is a prerequisite for effective dispute resolution. In the latest stage of China's judicial reform, the SPC has been provided with new attributes: "[the SPC shall] perform constitutional and legal duties loyally, exercise adjudicative powers independently and impartially in accordance with the laws [...] deepen the judicial system reform, strengthen the judges' practical training program, promote the public trust of the judicature and endorse social equity and justice".<sup>8</sup> Such changes include the following aspects:

### 2.1.1. UPDATES IN THE SPC'S JUDICIAL PHILOSOPHIES

#### 2.1.1.1. Enhancement of the Human Rights Protection

In order to put into practice the postulate according to which "China is ruled by the law", human rights shall be well protected by the judicial system. However, the SPC used to consider human rights protection merely as being tough on criminals and concentrating on the victims' protection. As a consequence, legal rights protection of the accused was neglected for a long time. Now such imbalance is getting reduced. For example, in 2003, the SPC initiated a nationwide action with a view to decreasing the number of illegally extended detentions and implemented ten "minor solutions" to prevent prolonged pre-trial detention in the future. The aim of this action was to respect the suspects' and defendants' right to be duly sentenced and set free without undue delay.

As the *Amendment to the Constitution of 2004* explicitly stipulated, "the State respects and preserves human rights". Correspondingly, former Chief Justice

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<sup>8</sup> Resolution at the Second Session of the Twelfth National People's Congress 2014.

of China Xiao Yang stated: “We should implement the principle of respecting and protecting human rights in all aspects of social life in all judicial activities” and “enhance human rights protection in all judicial fields, and the concept of human rights protection shall be firmly established in the whole society”.<sup>9</sup> Human rights clause was also embedded in the *Criminal Procedure Law of 2012*. The SPC then issued an *Opinion on the Establishment of a Sound Mechanism of Preventing Miscarriage of Justice in Criminal Cases* in 2013, making it clear that “it is equally important to protect human rights as it is to fight against crimes”.<sup>10</sup>

Death penalty deprives a person of the right to live – the center component of human rights. In 2007, the SPC deprived provincial high courts of the power to review death penalty cases, becoming the exclusive judicial organ that has the authority to approve death penalties. In addition, the SPC confirmed the principle of reviewing death penalty cases, that is, all criminals under death penalty shall be sentenced with a two-year suspension of execution, unless immediate execution is necessary.<sup>11</sup> This regulation shows respect for life and takes precautions against the death sentence.

#### 2.1.1.2. Introduction of the Adversarial Proceedings and Integration of Two Major Litigation Philosophies

Litigation pattern in China shares inquisitorial elements of the civil law system. Judges play an active role in the proceedings, while the litigants are quite passive. This feature is particularly apparent in criminal proceedings: the defendant is usually unable to match up with the power and resources of the prosecutor side. In recent years, however, the SPC altered its trial mode by introducing into it basics from the adversarial proceedings system.

In the aspect of civil proceedings, driven by the market-oriented economy, conceptions of private rights and autonomy of private law have been deeply rooted in China. *Interpretation of the Supreme People's Court of Several Issues concerning the Application of the Civil Procedure Law* issued in 1992 and *Several provisions on the reform of the trial mode (litigious mode) in civil economic cases* issued in 1998 by the SPC provided a set of detailed rules regarding the determination of claims, evidence production, evidence examination and evidence review in civil proceedings, with a focus on putting the litigants in the dominant position at trial and weakening the judge's power of trial control, which in return would boost the adversarial elements in civil litigation.

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<sup>9</sup> Xue Yongxiu, *Conference of Deans of Higher People's Courts Was Convened in Beijing*, Dec. 16th, 2004, see <http://www.chinacourt.org/article/detail/2013/06/id/144099.shtml> (accessed: May 19th, 2014).

<sup>10</sup> *Opinion on the Establishment of a Sound Mechanism of Preventing Miscarriage of Justice in Criminal Cases*.

<sup>11</sup> *Working Report of Supreme People's Court 2010*, see [http://www.court.gov.cn/qwfb/gzbg/201007/t20100716\\_7756.htm](http://www.court.gov.cn/qwfb/gzbg/201007/t20100716_7756.htm) (accessed: May 19th, 2014).

China's *Criminal Procedure Law* that was revised in 1996 adopted the concept of "equality in confrontation" from the principle of adversarial proceedings. Accordingly, the center of criminal proceedings has been shifted from the investigation phase to the trial phase, with an emphasis on the protection of the defendant's right to due process.<sup>12</sup> With the *Criminal Procedure Law* being revised again in 2012, the SPC proceeded to intensify the trial mode reform<sup>13</sup> by "vigorously absorbing beneficial factors from the adversarial proceedings system and the 'accuse-defense' trial mode".<sup>14</sup> Within the same year, *Notice on Legal Aid in Criminal Cases* was issued by the SPC to ensure protection of the defendant's right of defense, with a focus on the right to a fair trial of the accused in the second instance proceedings and in the retrial procedures.<sup>15</sup>

### 2.1.2. SPC CONCENTRATING ON ESTABLISHING THE EVIDENCE RULE SYSTEM

In the process of judicial reform, the SPC gradually realised that an accurate determination of evidence was a guarantee of the trial work's quality as well as the foundation of judicial justice.<sup>16</sup> In 2007, the then Chief Justice of the SPC stated: "Evidence is the basis on which we put into practice the judicial justice".<sup>17</sup> Since evidence rules are closely linked with the fundamental work of fact-finding and distribution of rights and duties, its construction is undoubtedly the primary task in the pursuit of judicial justice.<sup>18</sup> Under the influence of human rights protection and the principle of adversarial proceedings, focusing on the system of evidence rules is substantially equally important as focusing on adversarial position and the parties' duties in litigation. In this sense, establishing a system of evidence rules is the turnout of China's effort in embracing the civil law and common law systems together. The SPC has been working tirelessly and constantly on this aspect.

<sup>12</sup> Zeng Dejun, Yang Wei, *Direction of Choice on the Mode of Criminal Procedure of China*, Legal System and Society, 2007 (12).

<sup>13</sup> Qi Shujie, Zhong Shengron, *Influence of Civil Trial Mode Reform on the Evidence System of China*, Law Review, 1998 (4).

<sup>14</sup> *Report on the Evidence and the Rule of Law in China, 1978–2008*, Chief Editors, Baosheng Zhang and Lin Chang, China University and Political Science and Law Press (2010).

<sup>15</sup> *Guideline of 5-Year Reform of People's Court 1999–2003*.

<sup>16</sup> *Notice on the Pilot Project of Implementation of the Uniform Provisions of Evidence of People's Court (Proposal for Judicial Interpretation)*, April 11th, 2008.

<sup>17</sup> *Report on the Evidence and the Rule of Law in China, 1978–2008*, Chief Editors, Baosheng Zhang and Lin Chang, China University and Political Science and Law Press (2010).

<sup>18</sup> Zhang Baosheng, *Construction of Evidence System is the Principal Task of Realizing Judicial Justice*, Evidence Science, 2010 (5).

### 2.1.2.1. The SPC's Strategic Plan on Establishing Evidence Rule System

Establishment of evidence rule system played a big role in the *Guideline of 5-Year Reform of People's Court 1999–2003*, focusing on “innovating evidence system, refining evidence rules and initiating evidential legislative proposals”. Six out of eleven items regarding the trial mode reform related to evidence rules:

1. Refining the process of evidence examination and evidence review. Analysis of evidence evaluation at issue shall be fully explained in written judgments.
2. Urging witnesses to show up in the courtroom to testify and study related issues such as duties to testify in the courtroom, witness safekeeping, financial support for witnesses on stand-by.
3. With respect to evidence in criminal proceedings, attention shall be paid to the burden of proof in cases of private prosecution, issuing guidance on evidence presentation between parties as well as on the judge's power of investigation.
4. With respect to the system of evidence in civil proceedings, rules on the burden of proof, time limit for evidence presentation, pre-trial discovery and evidence collection by the court need to be refined.
5. With respect to evidence in administrative proceedings, rules on evidence presentation, evidence examination and evidence evaluation need to be refined and an evidence rule system suitable for administrative proceedings shall be established.<sup>19</sup>

### 2.1.2.2. The SPC's Two Provisions on Civil and Administrative Evidence System

*Provisions of the Supreme People's Court on Evidence in the Civil Proceedings* and *Provisions of the Supreme People's Court on Evidence in Administrative Litigations*, both issued by the SPC in 2002, are deemed to be its landmark achievement in the evidence rule system construction. As some scholars have remarked, “in the history of China's evidence legislation, *Provisions on Evidence in the Civil Proceedings* is the first statute that contains a series of specific evidence rules organised in a systematic way, which shows lawmakers' understanding of systematisation of evidence rules.”<sup>20</sup> These two *Provisions* improved the rules regarding the burden of proof, set up a system of self-admission and pre-trial evidence disclosure, introduced the concept of an expert assistant (similar to the role of an expert witness) and added best evidence rules on judicial notice.

### 2.1.2.3. The SPC's Endeavour to introduce Unified Rules of Evidence

Vice Chief Justice of the SPC Shen Deyong believed that there were two mode options for the evidence system legislation. One option is modifying evidence rules in three procedural laws respectively. The other option is enacting

<sup>19</sup> *Guideline of 5-Year Reform of People's Court 1999–2003*.

<sup>20</sup> Tang Weijian, *The Creativity and Defect of Some Provisions of the Supreme People's Court on Evidence in Civil Procedures*, *Studies in Law and Business*, 2005 (3).

an independent uniform evidence code by the state legislature.<sup>21</sup> In 2006, the SPC asked the Institute of Evidence Law and Forensic Science, China University of Political Science and Law to draft *Uniform Provisions of Evidence of the People's Court (Proposal for Judicial Interpretation)*. This Proposal of Uniform Provisions of Evidential Proceedings (hereinafter *Uniform Provisions*) includes one hundred seventy-four articles in total, applicable to civil, criminal and administrative procedures. Based on the principles of accuracy, justice, harmony and efficiency, the authors of the *Uniform Provisions* took relevance as their pivotal element and prepared a comprehensive set of evidence rules focusing on evidence presentation, evidence examination and evidence review. Moreover, the rules concern privilege, hearsay, illegally obtained evidence, character and propensity evidence, as well as inadmissibility of evidence.

#### 2.1.2.4. The SPC's Response to Wrongful Convictions by Improving Criminal Evidence Rules

From She Xianglin case in 1994 to Du Peiwu case in 1998 and to Zhao Zuohai case in 2010, a series of wrongful convictions sparked criticism pointing to unsoundness of the evidence system, including extorting confessions by torture, chaos in the management of forensic examinations and lack of regulations in the field of evidence examination and evidence review. Basing on this understanding, the SPC issued *Provisions on Several Issues concerning the Examination and Judgment of Evidence in Death Penalty Cases* and *Provisions on Several Issues concerning the Exclusion of Illegal Evidence in Criminal Cases* jointly with other state organs in 2010. The two judicial interpretations set up the principle of “evidentiary adjudication”, established “beyond reasonable doubt” as standard of proof in death penalty cases, and systematically specified detailed requirements in reviewing documentary evidence, physical evidence, witness testimony and forensic appraisal. Furthermore, the ban to use illegally obtained evidence was introduced for the first time in China's criminal proceedings.

#### 2.1.3. THE SPC'S PROMOTION OF JUDICIAL TRANSPARENCY

According to an old English saying, justice should not only be done, but should manifestly and undoubtedly be seen to be done.<sup>22</sup> The SPC now promotes judicial transparency, expecting to put into practice the idea of “justice under sunshine”. Specifically, the SPC's *Several Provisions on Recording and Videoing Trial Activities* in 2010 was intended to make justice “repeatable and freezable”;

<sup>21</sup> Chief Justice Xiao Yang, *China Continues intensifying the Reform of Evidence System*, see [http://big5.gov.cn/gate/big5/www.gov.cn/jrzg/2006-05/30/content\\_295901.htm](http://big5.gov.cn/gate/big5/www.gov.cn/jrzg/2006-05/30/content_295901.htm) (accessed: May 19th, 2014).

<sup>22</sup> *Law and Religion*, Harold J. Berman, translated by Liang Zhiping, China University of Political Science and Law Press, August 2003.

a website called China Judgments and Decisions,<sup>23</sup> launched by the SPC in 2013, is designed to make written judgments available to the public; the SPC also promulgated *Opinions on Promoting the Construction of Three Platforms for Judicial Transparency* this year, which increases the transparency of the trial, judgments and enforcement information. This effort facilitates public supervision. The SPC also launched its microblog (Sina Weibo, similar to Twitter) in 2014, followed by more than six hundred sixty lower-level courts. Courts from about twenty provinces now simultaneously show to the public their case trial through “live blog”.<sup>24</sup> All these efforts are “We-media” style disclosures from the SPC with a view to delivering latest cases and judicial philosophies to the general public.

#### 2.1.4. THE SPC'S PROMOTION OF STANDARDISATION OF SENTENCING REFORM

Each year, an average of 850,000 criminal defendants are sentenced in China.<sup>25</sup> “Regulating judicial discretion and embedding sentencing into the court trial proceedings” is a key part of the SPC's *Guideline of 5-Year Reform of People's Court 2009*.<sup>26</sup> In 2010, the SPC took part in the promulgation of the *Opinions on Several Issues of Sentencing Procedure Standardisation (trial)* and the *People's Court Sentencing Guidelines (trial)*, which triggered reform on quantification of sentencing methods and relative independence of sentencing procedure.<sup>27</sup> These two statutes provide legal grounds for regulating judge's discretion in the realm of sentencing and are a great improvement in pursuing judicial justice.

#### 2.1.5. ESTABLISHING A CASE GUIDANCE SYSTEM

“Establishing and improving a case guidance system and highlighting its influence in unifying standards of law application, guiding trial work of lower-level courts, as well as enriching and developing juristic theories” is a task included in the SPC's *Guideline of 5-Year Reform of People's Court 2004–2008*. In 2010, the SPC issued *Provisions on Case Guidance*. China's case guidance system, under a legal system based mainly on statutes, is a system using typical cases serving as an example to accurately comprehend and apply law and regulations.<sup>28</sup> To some extent, it is similar to Anglo-American case law systems, although these two systems differ from each other. In recent years, under the principle of “letting

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<sup>23</sup> <http://www.court.gov.cn/zgcpwsw/>.

<sup>24</sup> Fu Dalin, *Live Court Trial Makes “Justice under Sunshine”*, People's Daily, April 14th, 2014.

<sup>25</sup> Li Yuping, *On the Proof of Sentencing Fact*, Evidence Science, 2009 (1).

<sup>26</sup> *Guideline of 5-Year Reform of People's Court 2009–2013*.

<sup>27</sup> Chen Ruihua, *Evidence Rules in the Sentencing Procedure*, Jilin University Journal Social Sciences Edition, 2011 (1).

<sup>28</sup> *Judicial Reform of China*, State Council Information Office of the People's Republic of China, October 2012.



cases explain the law”, the SPC selected and released a set of typical cases to provide reference for lower-level judges’ decisions in similar cases. Such a system promotes judges’ discretion in a reasonable way and reinforces implementation of the principle of “Equal Justice Under Law”. This is virtually a “tactical” acceptance of the case law system, following the trend of fusion of the two major legal systems.

## 2.2. FROM PASSIVE IMPLEMENTER OF LAWS AND POLICIES TO ACTIVE MAKER OF PUBLIC POLICIES

As the nation’s highest-level judicial organ, one of the SPC’s main functions is to implement laws and policies. However, “a judge’s decision has to take social stability and economic development into consideration and should not trade off other values for legal value only”.<sup>29</sup> The SPC’s effort in litigation system development is mostly about legitimacy proceedings in the realm of the court’s power and the parties’ rights, with the focus on procedural justice. By comparison, the SPC’s creation of public policies’ roots puts an emphasis on the judicial realisation of substantive justice.<sup>30</sup>

In general, the purpose of the SPC as the judicial authority is to make public policies that influence “check and balance” between interests of the state, society and citizens through norms (laws), adjust judicial distribution of interests and, going one step further, clearly define or marginally adjust the extent of all parties’ interests in criminal, civil and administrative proceedings, which either reflects or responds to the current mainstream policies or contemporary social values. The SPC plays such a role by means of judicial interpretations of substantive law, issuing standardised documents and presenting typical cases. For example, the SPC issued pertinent judicial interpretationson cases including such issues as e.g. agricultural land, compensation for demolition, corruption, drug abuse, abducting and trafficking women and children, cyber crime and food safety.

Besides, the system of judicial guidance mentioned above has similar influence on forming public policies. It covers a wide range of social life, including intellectual property, medical disputes, domestic violence, sexual assault and so on.

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<sup>29</sup> Xiao Yang, *China’s Judicature: Challenge and Reform*, People’s Judicature, 2005 (1).

<sup>30</sup> Zhang Youlian, *Research on the Function of Creating Public Policy of Supreme People’s Court*, Ph.D. dissertation of Jilin University, 2009.

### 3. DIRECTION OF THE SPC IN THE COMING NEW ROUND OF REFORM

A new round of judicial reform will be launched this year in China, focusing on the problems of localisation of judicial power and judicial administration. The plan is to promote unified province-level management of judicial working force and property to eliminate local protectionism in judicature, and to implement a responsible system of cases being examined by a presiding judge and a collegiate bench.<sup>31</sup> The SPC will soon issue its fourth *Guideline of 5-Year Reform of People's Court*, in which we can expect further changes in the SPC's role in the future.

#### 3.1. DE-ADMINISTRATIVISATION OF THE COURT AND PROFESSIONALISATION OF JUDGES

Some scholars criticised the fact that during the implementation of the *Guideline of 5-Year Reform of People's Court 2009*, the SPC seemed to “continue its transition from system construction to policy guidance. Revolution in the trial mode and evidence system construction is no longer the key point of the reform, since the political slogans, such as ‘active judiciary’, ‘judiciary for the people’, ‘mediation first’ and even ‘social stability first’, became the keywords. This showed a more and more noticeable trend of judicial administrativisation”.<sup>32</sup> However, “if the judicial activities absorb excessive administrative management disciplines, the fundamental nature of judiciary, that is to say, justice, will no longer exist. In other words, judiciary will no longer be the modern judiciary. Then it will lose its value of independent existence and be no different from the general state functions”.<sup>33</sup>

The long-standing administrative mode of management within the Chinese court system is shown in the following two aspects:

One is the administrativization of judicial management. On the one hand, high-level judges have the authority to decide on the salaries and promotion of lower-level judges and have more power in the decision-making process of cases. On the other hand, the currently existing accountability system for incorrect judgments, lacking flexibility, and judge's performance appraisal system based on the reversal rate and remand rate only make things worse.

<sup>31</sup> *The Third Stage of Judicial Reform is Beginning*, The Economic Observer, April 4th, 2014.

<sup>32</sup> *Report on the Evidence and the Rule of Law in China, 2010*, Chief Editors, Baosheng Zhang and Lin Chang, China University and Political Science and Law Press (2012).

<sup>33</sup> Jiang Huiling, *Analysis on the Drawbacks of Administrativization of Trial*, People's Judicature, 1995 (9).

The other issue is administrativisation of judicial power operations. The hierarchical control and the “submit-approval” mode in the decision making process of a case violate the principles of direct and verbal proceedings and go against the rationality and autonomy of judgment that is required. The separation of hearing and decision-making is an obstacle for an independent and fair judgment. A strict and unified administrative management and a requirement that the subordinate must obey the superior prevent judges from thinking independently and exercising their discretion freely in specific cases, which further hinders judicial justice.

The SPC is also expected to be an active frontline promoter of the reform process of the courts’ de-administrativisation, as well as a protector of the professionalisation of judges. On the one hand, the SPC should aim to establish a new organisation of the trial mode, which could effectively limit the scope and procedures of cases submitted to the court administrative leaders at all levels for instructions and fully respect the decisions made independently by the judges and the jury, in order to truly put into practice the idea that the “cases are decided by the adjudicators”. On the other hand, the SPC shall campaign for improving welfare and wage treatment of judges through legislations, strengthening judges’ identity protection while reducing the disadvantages of the judges’ profession. Only in this way the judges will be encouraged to rely on evidence, follow laws, and, most importantly, pass independent and just judgments using their own wisdom and experience.

### 3.2. THE SPC SHOULD BE MORE CONCENTRATED ON JUDICIAL PRACTICE SUPERVISION AND GUIDANCE

Currently, the SPC spends too much time on examining cases. The annual *Working Report of the SPC* revealed that the SPC tries 11,000 to 13,000 cases per year, out of which 7,000 to 9,000 cases are concluded. By contrast, the Supreme Court of the United States chose to hear only 77 cases out of 7,509 lawsuits brought to the Court in 2013.<sup>34</sup> Even taking the population factor into consideration, the SPC still spends too much time and energy on hearing cases.

“The higher the level of court, the weaker the function of accurate scrutiny, and institutional administrative function increases”.<sup>35</sup> The trial is undoubtedly situated in the center of judicial activities. Nonetheless, the SPC, as the supreme judicial organ of the nation, shall focus on guiding the development of law, ensuring the consistency of law application, and striving for the legal stability from

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<sup>34</sup> John Roberts, *2013 year-end report on the federal judiciary*, translated by Huang Bin and Zhao Xin, see [http://www.guancha.cn/John-Roberts/2014\\_02\\_25\\_207916\\_2.shtml](http://www.guancha.cn/John-Roberts/2014_02_25_207916_2.shtml) (accessed: May 19th, 2014).

<sup>35</sup> Song Bing, *Reader: the Judicial Systems and Procedures of the US and Germany*, China University of Political Science and Law Press, 1998.

an overall perspective. The SPC's task is to supervise all courts in China and to exercise control over their work. Thus, the SPC is capable of and responsible for guiding judicial practice, issuing judicial interpretations and releasing examples of typical cases, and not merely solving individual disputes. To say the least, the SPC's role is not just meant to pass a judgment in every single cases but to set an example on a nationwide scale in a comprehensive way, striking a balance between various interests and promoting standards for lower-level courts. In this sense, it is essential that the SPC shall rethink its jurisdictional system as well as its mode for selecting and accepting cases for examination.

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## THE SUPREME PEOPLE'S COURT OF CHINA IN THE PROCESS OF JUDICIAL REFORM

### Summary

The text presents judicial reforms of the Supreme People's Court of China (SPC). The author argues that during a twenty-year period, the role of the SPC has underwent two major transitions. Firstly, its role of a dispute solver evolved into a designer and a leading

voice of the judicial system in China. Secondly, it shifted its position from a passive implementer of laws and policies into an active public policy maker. The text also offers an insight into the SPC's enhancement of human rights protection, efforts to establish the evidence rule system, as well as its role in promoting judicial transparency.

### **KEYWORDS**

Supreme People's Court of China, judicial reform, human rights, evidence rule system

### **SŁOWA KLUCZOWE**

Najwyższy Sąd Ludowy, reforma sądowa, prawa człowieka, system dowodów