

## Manifestations of Profit-driven Justice and the Construction of Procuratorial Supervision Rules

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**Abstract:** In recent years, profit-driven judicial acts have attracted widespread attention. Such acts are characterized by occurred in underdeveloped regions, artificially established connections for trans-regional jurisdiction, and involvement in property-related interests. They can be categorized into three types: individual self-benefiting type, collective self-benefiting type and collective external-benefiting type. The emergence of profit-driven judicial acts undermines judicial credibility in China and infringes upon the legitimate rights and interests of private enterprises and entrepreneurs. Among various contributing factors, the absence of legal supervision stands out as the core cause. Under China's current procuratorial supervision norms, procuratorial organs at the actual jurisdiction place, enterprise registration place or principal place of criminal conduct are unable to perform their supervision duties effectively. Procuratorial organs in actual jurisdiction places lack direct jurisdiction over such acts, and there exist regional disparities in case adjudication criteria. By contrast, procuratorial organs in the latter places are hindered from exercising legal supervision due to information lag and local interests. Thus, this paper focuses on the construction of procuratorial supervision rules targeting such acts. At the macro level, China should adhere to the guidance of specialized supervision work launched by the Supreme People's Procuratorate, and empower the procuratorial organs at the higher level of the law-enforcement sites to directly exercise supervision power. At the micro level, it is essential to establish a system whereby all confiscated gains are handed over to the central government, and implement targeted supervision in accordance with the three categorized types of acts. The construction of such rules can ensure the impartial operation of judicial power and safeguard the development of the private economy.

**Keywords:** profit-driven judicial acts; procuratorial supervision; enterprise registration place or principal place of criminal conduct; actual jurisdiction place

## I. Raising the Question

Profit-driven judicial acts refer to judicial activities conducted by investigative organs, procuratorial organs and people's courts oriented toward seeking economic benefits, in which they exceed statutory authority or abuse jurisdiction. Specifically, such acts artificially create jurisdictional connections by means of relevant judicial normative documents, extended interpretations, multi-level designated jurisdiction and combined case jurisdiction. Thus, judicial organs without substantial relevance formally conform to the provisions of Article 25 of the Criminal Procedure Law of the People's Republic of China (hereinafter referred to as the Criminal Procedure Law) concerning the place of crime or the residence of the defendant.

However, such acts essentially exclude statutory competent authorities that better meet the requirements of procedural justice and efficiency, and grant jurisdiction to organs with weak links to criminal facts. By arresting private entrepreneurs in other regions, confiscating illegal properties, or improperly expanding the scope of seizure, distraint and freezing, such judicial acts greatly raise the cost when finding facts and violate the value of procedural efficiency. Since such judicial acts go beyond the scope of criminal jurisdiction and are analogous to pelagic fishing in the fishery industry, they are vividly called "pelagic fishing" law enforcement acts by the media.<sup>[1]</sup> Since the abuse of power case involving Yang and Zhan took place, the phenomenon of profit-driven justice has drawn widespread attention in China<sup>①</sup>.

From an institutional perspective, China has issued various normative documents to explicitly prohibit authorities at all levels and of all types from conducting trans-regional judicial acts driven by economic interests. The Seven Provisions on Prohibiting Profit-driven Law Enforcement by Public Security Organs promulgated in 2021 requires public security organs to strictly go through cooperation procedures when handling cases in other regions. It also prohibits them from illegally competing for jurisdiction over cases with confiscation proceeds. Article 5 of the Guidelines for Building a Unified National Market (Trial) also clarifies that illegal law enforcement and jurisdiction in other region should be prohibited, and profit-driven judicial acts shall be prevented and rectified. These rules have restrained profit-driven judicial acts to a certain extent. Nevertheless, these judicial acts happen in multiple regions, and procuratorial organs in relevant areas facing difficulties in exercising supervision over such acts. Neither procuratorial organs in the actual jurisdiction place nor those in the enterprise registration place or principal place can conduct effective supervision. Therefore, influenced by local interests and the imperfect legal supervision mechanism, irregular profit-driven judicial acts remain prevalent.

Scholars have also engaged in extensive discussions on countermeasures against profit-driven justice. Some scholars hold the view that a sound jurisdiction mechanism should be established, and it is essential to reconstruct the jurisdiction transfer system in China's criminal procedure and attach equal importance on investigative jurisdiction and trial jurisdiction.<sup>[2]</sup> In addition, other professors have published academic papers from the perspective of legal interpretation. They successively put forward solutions such as the interpretation principle in favor of the defendant and the restrictive interpretation of the place of conduct and the place of consequence, so as to strictly guard against profit-driven justice.<sup>[3]</sup> <sup>[4]</sup>By sorting out existing academic documents, it can be found that academia has not categorized suspected profit-driven judicial acts reflected in recent news reports and judicial cases. Furthermore, current studies have not explored the operational dilemmas

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<sup>①</sup> Yang and Zhan, police officers from another province, they privately come to Jiangsu, Zhejiang and other regions to seek illegal personal gains. In May 2023, they also extorted property from private entrepreneurs under the pretext of assisting in case handling. In June 2023, on the ground of cooperating with investigative organs in case investigation, they forcibly took entrepreneur Shen away from his residence in Wujiang, Jiangsu. They hinted that they could help settle the case and extorted money from him. Eventually, they were convicted of the crime of abuse of power and sentenced to eight months and seven months in prison respectively. See Police Officers and Auxiliary Police Sentenced for Illegally Carrying Police Equipment Across Provinces to Arrest People and Extort Money, City Times, December 19, 2024, p. A13.

of existing procuratorial supervision rules. Although some studies have noted that procuratorial organs should focus on the legality and appropriateness of jurisdiction, there still exist blanks on how procuratorial organs perform their supervisory functions when jurisdiction disputes arise or parties' right to raise jurisdiction objections is improperly restricted. Besides, it is noteworthy that the Supreme People's Procuratorate recently held a special meeting to make systematic arrangements for special supervision targeting irregular law enforcement as well as profit-driven justice nationwide<sup>②</sup>. Procuratorial organs play an important role in ensuring the unified and correct implementation of laws. Their legal supervision has become a key measure to standardize profit-driven judicial acts and construct a well-regulated business environment. In view of the deficiencies in current institutional arrangements and academic researches, this paper intends to define the core characteristics of profit-driven judicial acts and explore effective ways for procuratorial organs to exercise supervision power.

## II. Specific Manifestations and Judicial Risks of Profit-driven Judicial Acts

### 2.1 Characteristics and Classifications of Profit-driven Judicial Acts

The author retrieves public reports on news websites and government information disclosure platforms using keywords such as "profit-driven law enforcement" and "pelagic fishing law enforcement", and find 22 relevant and typical cases. Some of these cases have been confirmed as irregular profit-driven judicial acts, while the rest have caused heated discussions due to suspected such judicial acts.

No.	Case Name	Inv. Time	Reg. <del>—</del> / Act. Loc	Inv. Auth. Loc	Offense	Disposition
1	Yang <del>—</del> &	Jun 2023	Wujiang, JS	Deqing, ZJ	Abuse of	fixed-term
2	Xing Yanjun	Nov	Beijing	Xinzuo	Operating	Case withdrawn
3	Yijiankang	Oct	Guangzhou, G	Jiaozuo, HN	Fraud	Pending
4	Xinhu Group	Oct 2022	Hangzhou, ZJ	Tianmen, HB	Unit Bribery	Recovered Yihua Mining equity &
5	Yang Liguo	Jun 2022	Tangshan, HE	Shijiazhuang,	—	Pending
6	Chen	Oct	Guangzhou,	Changsha,	Commercial	1 yr 10 mos
7	Hongmao Liquor	Jan 2018	Guangzhou, GD	Ulanqab, IM	Product Defamation	Remanded; settled; prosecution

<sup>②</sup> Sourced from the official website of the Supreme People's Procuratorate: [https://www.spp.gov.cn/tt/202503/t20250326\\_691422.shtml](https://www.spp.gov.cn/tt/202503/t20250326_691422.shtml).

No.	Case Name	Inv. Time	Reg. <del>---</del> / Act. Loc	Inv. Auth. Loc	Offense	Disposition
8	Ruide	Sep 2022	Zhuhai, GD	Zhengzhou, H	Fraud	Pending
9						
10	“Banban”	Apr	Wuhan, HB	Foshan, GD	Operating	Pending
11	Liang Liang	Early	Hangzhou, ZJ	Wuxi, JS	Misuse of	10 yrs
12	Weigewood	Mar	Chengdu, SC	Xinxiang, HN	—	Pending
13	Bitte Times	May	Beijing	Changsha,	Illegal	Non-prosecution
14	Dalwei/Zhan	Jun 2021	Shanghai	Shijiazhuang,	Fraud	Frozen <del>---</del> → ¥2B
15	Wang(Aucti	Nov	Shenzhen, GD	Nanyang, HN	Fraud	Pending
16	Liu Yanping	Dec	Laibin, GX	Wuxi, CQ	Fraud	Pending
17	Hangzhou	Dec	Hangzhou, ZJ	Wuxi, CQ	Fraud	Pending
18	Hunan Debt	Aug	Changsha, HN	Baiyin, GS	—	—
19	Yitan	Jan 2023	Shanghai	Changde, HN	Operating	Supplementary
20	Bake	Jul 2024	Tangshan, HE	Heze, SD	Pyramid	Pending
21	Chen & Hu	Aug	Nanjing, JS	Guangzhou,	Illegal	6 yrs 6 mos
22	Yin	Feb	Shenzhen, GD	Jixi, HLJ	Fraud	Pending

Based on the above cases, the characteristics of profit-driven judicial acts can be summarized in the following five aspects. First, such cases usually happen in the past five years. Among the 22 cases, 19 cases involved criminal compulsory measures or asset seizure, attachment, or freezing within the last five years, with a proportion of 86.4%. Second, the registered addresses of enterprises and the locations of alleged criminal acts in these cases are generally situated in economically developed regions. By contrast, authorities engaging in profit-driven judicial acts are mostly from less developed regions. This suggests that less developed areas may

rely on fines and forfeitures due to underdeveloped economy and limited tax revenue, thereby creating incentives for profit-driven justice. In such regions, fines and forfeitures have become a key instrument to supplement fiscal revenue and balance budgets.<sup>[5]</sup> Third, the connecting factors in such cases are usually vague. Some authorities handle the entire case merely based on a minor violation or the residence of a victim within their territory. Such artificially constructed and overly broad jurisdictional links are often unreasonable due to a lack of sufficient legal basis. More importantly, The large amount of money involved enables judicial authorities to obtain substantial gains from fines and forfeitures when conducting judicial activities across regions, which further exacerbates the separation between the jurisdiction venue and the enterprise's location. Fourth, all cases involving property crimes, economic crimes, crimes against social order, and corruption and bribery crimes, with over half of the crimes occurring online. This further confirms that such cases exhibit common characteristics, including a broad scope of places where consequences occur and the presence of pecuniary benefits. Fifth, the implementing organs of such conduct are diverse. Profit-driven judicial acts are mainly committed by investigative organs. However, among these cases, law enforcement and judicial organs in another three cases include people's courts, procuratorial organs and market supervision and administration bureaus. Accordingly, it is necessary to strengthen the procuratorate's role in legal supervision, restraining relevant judicial activities through its supervisory power.

The key to defining these judicial cases lies in judging whether the jurisdictional basis of relevant judicial acts is reasonable. Nevertheless, Article 25 of the Criminal Procedure Law only have explicit jurisdiction rules for people's courts, but contains no direct provisions on investigation jurisdiction and prosecution jurisdiction. Such legislative gaps seem to cause the absence of statutory criteria for confirming the jurisdiction of investigative organ and procuratorial organs. However, authoritative legal interpretations clearly state that the article which defines competent courts, is of great significance for correspondingly designating public security and procuratorial organs responsible for investigation and prosecution.<sup>[6]</sup> Thus, it is clear that the jurisdiction of investigative organs and procuratorial organs shall follow the established jurisdiction rules of the court.<sup>[7]</sup> This view is also corroborated by Articles 15 and 16 of the Rules for Handling Criminal Cases by Public Security Organs. Investigative organs shall exercise jurisdiction over criminal cases mainly based on the place of crime and secondarily on the residence of criminal suspects. The place of crime includes where the criminal act is committed and where criminal consequences occur. Therefore, although the Criminal Procedure Law has not set a comprehensive rule for public security organs, procuratorial organs and people's courts, the jurisdiction rules based on the place of crime and the residence of suspects in trial jurisdiction essentially serve as the normative basis for jurisdiction of another two organs in light of criminal procedure principles. In conclusion, this paper strictly adopts the criteria of the place of crime and the residence of involved private entrepreneurs to determine whether judicial organs have legitimate jurisdiction, and further verify the legitimacy of their judicial acts.

As an important methodology, typological thinking categorizes research objects to cover diverse phenomena in social life and overcome the limitations of abstract concepts.<sup>[8]</sup> A typological analysis of profit-driven judicial acts helps clarify real motivations of judicial organs for conducting such acts, so as to realize targeted regulation and effective supervision. Based on different purposes of profit-driven justice, the author classifies the above 22 suspected cases into the following three categories. First, individual self-benefiting type. Staff members of judicial organs take advantage of their official positions to seek personal gains. For instance, in the cases of abuse of power involving Yang and Zhan, police officers claimed that they can help private entrepreneurs handle cases and extorted property from them. Such illegal act for private

interests constitutes the crime of abuse of power<sup>③</sup>. Second, collective self-benefiting type. The typical characteristic is that judicial organs conducting these acts to obtain direct economic benefits by freezing or confiscating property or imposing criminal compulsory measures. Take the Yitan Technology case as an example. When investigating other cases, investigative organs in Taoyuan County, Hunan Province found that the involved funds flowed into the live-streaming platform of this private enterprise and were used for reward consumption. Subsequently, it is claimed by the investigative organ that the enterprise operated an online casino, then the police took compulsory measures against relevant personnel in another province and froze funds exceeding 420 million yuan. The accounts of other subsidiaries belonging to the same group but operating independently were also frozen<sup>④</sup>.<sup>[9]</sup> The investigative organ in Taoyuan County inevitably arouse suspicion that they sought improper interests through the disposal of properties. Third, collective external-benefiting type. It means judicial organs conduct profit-driven judicial acts to protect local private enterprises and entrepreneurs. For example, in the Chen Yongzhou case, journalist Chen Yongzhou published multiple critical reports on a leading construction machinery enterprise, and was arrested by investigative organs in Changsha, Hunan Province because of damaging the local enterprise's business reputation. Nevertheless, the involved press group was registered in Guangzhou, where the defendant resided and committed major relevant acts. The cross-regional act by Changsha investigative organs triggered widespread discussions on procedural justice.<sup>[10]</sup> As the key for local economic development, private enterprises strongly bolster local tax revenue, boost social employment, and drive the coordinated development of upstream and downstream industries. In the cases mentioned above, investigative organs conducted cross-provincial activities under the pretext of regulating the market and safeguarding business reputation, which actually reflects the tendency of interest-driven local protectionism.

In the course of participating as a member of the research team in drafting the Research Report on Corporate Crimes in China (2023-2024), the author statistically analyzing the jurisdiction variable in 4,604 sample cases and found that there exists a certain scale of profit-driven justice in enterprise crimes in China. Two points require particular clarification. First, the cases defined by the author as "pelagic fishing law enforcement" are those in which the place of trial differs from the enterprise's place of registration, the place where the criminal conduct occurred, and the place where the consequences occurred, and in which there exists a jurisdiction more appropriate than the place of trial. Second, given the limited disclosure of information in judicial documents, information concerning the connecting factors used to determine whether the jurisdiction exercised by the judicial organs was reasonable may not have been fully disclosed. Therefore, identifying profit-driven judicial cases on the basis of judicial documents can only be a "suspected" judgment and a probabilistic estimate, the accuracy of which remains to be further assessed. Nevertheless, 112 were suspected to become pelagic-fishing cases among 4,604 sample cases, accounting for 2.4%. It supports that although pelagic fishing law enforcement is not prevalent in current Chinese judicial practice, it is also not rare and requires governance urgently. Attaching a jurisdictional connection to a private enterprise or entrepreneur because of an incidental criminal act, or broadly construing the place where consequences occur in cybercrime, would deprive criminal investigation of

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<sup>③</sup> Police and Auxiliary Police Sentenced for Illegally Carrying Police Equipment to Arrest People Across Provinces and Extorting Money, Metropolitan Times, December 19, 2024, Page A13.

<sup>④</sup> In this case, the enterprise was registered and the main criminal acts were committed in Shanghai, while Taoyuan County of Hunan was merely one of the places where criminal consequences occurred. Although places of criminal consequences are deemed part of the place of crime, granting Taoyuan legitimate jurisdiction over the case, the rationality of its actual jurisdiction remains questionable. In addition, Article 144 of the Criminal Procedure Law stipulates that freezing measures shall be adopted "as needed for criminal investigation", which implies a relevance principle. Commercial registration information shows that Yitan Technology and its subsidiaries differ in names and business scopes, and no evidence shows there was financial confusion among these subsidiaries in public reports. Hence, it is controversial whether the accounts of independent subsidiaries ought to be frozen.

substantive significance.<sup>[11]</sup> Taking the “Chen Xiaoyong export tax rebate fraud case” among the 112 cases as an example, the enterprise registration place, the place where the export tax rebate fraud was committed, and the place where the consequences occurred were all in Jieyang, Guangdong. By contrast, only when the defendant conducted the preparatory act of purchasing foreign exchange was the foreign trade company registered in Jinhua, Zhejiang, the actual jurisdiction place in this case<sup>⑤</sup>. Concerning the convenience and the concentration of evidence, it would be more reasonable for the judicial organ at the principal place of crime to exercise jurisdiction. The investigative organ in Jinhua froze bank accounts of the private enterprise and entrepreneurs were unfavorable to the basic jurisdictional requirement of ascertaining case facts. The rationality of its jurisdiction is therefore doubtful. In addition, the 2.86 million yuan involved in the case falls within the category of an “especially large amount,” and both the frozen funds and prepaid funds were eventually confiscated and turned over to the state treasury. Accordingly, there is a significant suspicion that the judicial organs in the actual jurisdiction place engaged in profit-driven justice in other regions. Another representative case is the “Xiao Jun copyright infringement case”. The victim, Beijing Tengfeike Co., Ltd. (hereinafter “Tengfeike”), authorized Yongfeng Gedu Network Technology Co., Ltd. (hereinafter “Gedu”) to report the case on its behalf and pursue the infringer’s criminal liability, and therefore the People’s Court of Yongfeng County in Jiangxi Province exercised jurisdiction over the case. The defendant arguing that Gedu had no license to use the works involved, and the cloud storage server it leased on behalf of the victim for the allegedly infringed literary works could only be located in Ji’an City but not specifically in Yongfeng County. More importantly, the police did not extract the infringed works from the server. If the Yongfeng County Court still adopted an expansive interpretation of its jurisdiction despite an insufficient jurisdictional basis, then such cases would regard Yongfeng County as a preferred jurisdiction for achieving commercial purposes and would continuously bring large numbers of infringement actions lacking substantial connection through similar methods. The court responded as follows. First, Gedu should be regarded as the administrator of the infringed works. Second, although the server was not expressly located in Yongfeng County, but this county is included in Ji’an City. Therefore, Yongfeng County may also be regarded as one of the places where the victim used the information network system. Third, according to the testimony of Hu, Chen and Zhang, it can be proved that the three persons used the software developed by the defendant within Yongfeng County to read literary works free of charge, which thereby causing losses to the victim. Accordingly, Yongfeng County is also one of the places where the right holder suffered actual infringement as a criminal consequence<sup>⑥</sup>. In this case, the entity directly committing the infringing conduct was registered in Changsha, Hunan, the infringed literary works were stored on Tencent Cloud servers. Tengfeike, incorporated in Beijing, was merely one of many victims, and Gedu only played the role of providing storage and routine server maintenance services in Ji’an, Jiangxi. In addition, the judgment did not establish that the defendant’s residence was in Yongfeng County, and the illegal gains of 20.31 million yuan in the case were confiscated by the People’s Court of Yongfeng County and turned over to the state treasury. Based on the available information, the jurisdiction exercised by the People’s Court of Yongfeng County can hardly dispel the suspicion of profit-driven justice.

## 2.2 Causes and Harms of Profit-driven Judicial Acts

In terms of jurisdictional expansion, profit-driven judicial cases are mainly manifested in the deliberate

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<sup>⑤</sup> See Criminal Judgment of the People’s Court of Wuyi County, Zhejiang Province, (2024) Zhe 0723 Xing Chu No.133. The defendant purchased foreign exchange for the purpose of fabricating export facts, and this conduct was regarded as a preparatory act for fraudulently obtaining export tax rebates. Under Article 25 of the Criminal Procedure Law, the people’s court at the place of crime has jurisdiction over criminal cases. Although the place of criminal preparation falls within the statutory scope of the place of crime, whether that place should exercise jurisdiction should be premised on judicial efficiency. In addition, the judgment document does not directly support the conclusion that the preparatory act in this case occurred in Jinhua, Zhejiang.

<sup>⑥</sup> See Criminal Judgment of the People’s Court of Yongfeng County, Jiangxi Province, (2022) Gan 0825 Xing Chu No.2.

creation of connections for trans-regional jurisdiction. For example, some investigative organs offer rewards to collect case clues concerning private enterprises in other regions, or establish jurisdictional connections over all production and business activities of a private enterprise merely on the basis of a single report.<sup>[12]</sup> In addition, such expansion is often accompanied by the excessive and unlawful disposal of property involved in cases. Judicial organs may also conduct seizure, distraint or freezing in order to seek economic benefits, embezzle property that should be returned, or abuse compulsory measures against private entrepreneurs in other regions and restrict their personal liberty. In essence, judicial organs in such cases alienate their power into an instrument for seeking benefits.

As to its harms, profit-driven judicial acts undermine the authority of Chinese law and judicial credibility. The vitality of law lies in its implementation, and procedural justice is the cornerstone of a society governed by the rule of law. Under existing rules, when investigative organs conduct law enforcement in other regions, they shall follow proper procedures, cooperate with local public security organs in case handling, or entrust them to execute criminal compulsory measures on their behalf<sup>⑦</sup>. However, in profit-driven law enforcement and justice, investigative organs break existing procedural rules, conduct criminal investigations and impose compulsory measures across regions, and establish rather strained jurisdictional connections with private enterprises. Some investigative organs fail to strictly follow statutory procedures when seizing, distraining or freezing property, or abuse their powers by detaining property unrelated to the case, thereby adversely affecting the normal operation and market competitiveness of private enterprises in other regions. Whether investigative organs handle cases impartially directly affects public trust in justice. Such investigative acts based on artificially constructed close connections seriously weaken judicial credibility and consequently greatly diminish the authority of the criminal justice system. In addition, profit-driven judicial acts also impede China's healthy economic development and infringe upon the legitimate rights and interests of citizens and enterprises. First, for private enterprises, the unlawful intervention of investigative organs from other regions will halt normal production and operation and create the risk of a rupture in the capital chain. Enterprises create large numbers of jobs for society and make prominent contributions to improving people's livelihood. Restrictions on the production and development of private enterprises will directly create hidden dangers for the vitality of China's employment market and further impede high-quality economic development. Second, for private entrepreneurs, the abuse of criminal compulsory measures to restrict personal liberty will impair their legitimate rights and interests, and will suppress their willingness to invest to some extent. Such a decline in productive enthusiasm will also reduce the scale of investment and adversely affect enterprise development. Trans-regional law enforcement by investigative organs for profit-driven purposes not only entails the improper expansion of authority, but also damages the personal liberty and property rights of private enterprises and entrepreneurs.

The emergence of this judicial phenomenon is closely related to current local fiscal pressure and the distribution mechanism for fines and confiscation proceeds. After the tax-sharing reform, the local public finance in China has shown a trend of "a sharply rising proportion of expenditure and a significant decline in fiscal self-sufficiency", and in recent years local governments have generally faced fiscal pressure.<sup>[13]</sup> In light of the complex and severe current economic situation and local fiscal revenue, the risk of institutional alienation described above urgently deserves attention. On the other hand, a large proportion of current fines and confiscation proceeds in China belongs to local public finance, and finance departments then return part of the funds in the form of case-handling expenses through budgetary arrangements according to the specific needs of case-handling organs.<sup>[14]</sup> Therefore, when a hidden linkage forms between judicial organs' case-handling expenses and confiscation proceeds, the incentives for profit-driven justice arise. Judicial organs can conduct such

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<sup>⑦</sup> See Chapter XI of the Rules for Handling Criminal Cases by Public Security Organs.

acts against private enterprises with high expected returns in order to fill budget gaps. Under these circumstances, judicial organs become significantly dependent on fines and confiscation proceeds, which seriously violates the requirements of judicial impartiality.

### III. The Absence of Procuratorial Supervision over Profit-driven Judicial Acts

Profit-driven judicial acts shake the foundation of judicial justice in China and become a catalyst for wrongful convictions. Montesquieu stated in *The Spirit of Laws* that constant experience shows that every person invested with power is apt to abuse it; to prevent abuse of power, power must check power.<sup>[15]</sup> Apart from the distribution mechanism for fines and confiscation proceeds, the absence of legal supervision by procuratorial organs is another key cause of such acts. Under China's existing procuratorial supervision rules, procuratorial organs at the actual jurisdiction place, enterprise registration place or principal place of criminal conduct are all unable to fully perform their supervisory duties. The two places respectively face limitations such as restricted exercise of supervisory power, delayed access to information, inconsistent conviction and sentencing standards and the influence of local interests, making it impossible to impose direct and effective constraints on such acts.

#### 3.1 Difficulty for Procuratorial Organs at the Enterprise Registration Place or Principal Place of Criminal Conduct to Achieve Effective Supervision<sup>®</sup>

At present, procuratorial organs at the enterprise registration place or principal place of criminal conduct (hereinafter "Place B") still face difficulties in procuratorial supervision over trans-regional law enforcement and judicial acts. From the perspective of jurisdictional scope and institutional structure, judicial organs in Place B and the actual jurisdiction place (hereinafter "Place A") operate independently. Even if the procuratorial organ in Place A seeks assistance from the that in Place B through a transfer mechanism, there still exist institutional obstacles for the procuratorial organ in Place B to exercise supervisory power. In addition, it is also difficult for procuratorial organs in Place B to effectively supervise profit-driven judicial acts under differences in case-handling standards among regions.

Above all, without coordination by the common higher-level people's procuratorate, procuratorial organs in Place B have no authority to directly perform procuratorial supervision over profit-driven judicial acts. The reasons are as follows. First, the performance of duties by procuratorial organs in Place B is limited by territorial jurisdiction. Local people's procuratorates at all levels in China are created by people's congresses at the corresponding level and are subject to their supervision. The exercise of procuratorial power must follow the rule of same-level corresponding territorial jurisdiction.<sup>[16]</sup> This means that procuratorial organs mainly conduct legal supervision over judicial organs at the same level and within the same territory in their corresponding administrative divisions. Because Place B and Place A belong to different territories, and the law-enforcement activities of the judicial organs in the two places lack direct procedural connection, under current rules procuratorial organs in Place B have no authority to directly supervise the acts of judicial organs in Place A. Second, the performance of duties by procuratorial organs in Place B is limited by level jurisdiction and authorization rules. Under Article 24 of the Organic Law of the People's Procuratorates of the People's Republic of China, procuratorial organs at higher-level have the power to uniformly allocate procurators within their jurisdictions. Therefore, if procuratorial organs in another region intend to undertake supervisory duties, coordination and authorization are required by the procuratorial organs at higher-level of the two places. Although the procuratorial organ in Place B is at the same level as the judicial organ in Place A that conducted trans-regional

<sup>®</sup> The principal place of criminal conduct refers to the place where the production and business activities of the private enterprise or entrepreneur mainly occurred, or where key evidence essential to case investigation is mainly concentrated. This place usually has a core and substantial connection with the case.

law enforcement, however, without designation and authorization by their common higher-level organ, direct supervision by them would exceed the statutory scope.

What's more, even if the procuratorial organ in Place B obtains jurisdiction over the case through transfer by the procuratorial organ at the same level in Place A, the effectiveness of its supervision remains significantly limited. The core reason is that case transfer itself marks entry into the stage of examination for prosecution, which necessarily makes supervision by the procuratorial organ in Place B delayed and indirect<sup>⑨</sup>. On the one hand, when the procuratorial organ in Place B intervenes to exercise supervisory power, the investigative activities in Place A have already ended. This makes it difficult for them to timely intervene in profit-driven judicial phenomena emerging during criminal investigation. Besides, procuratorial supervision over investigative acts in China mainly relies on reviewing parties' petitions and complaints.<sup>[17]</sup> Limited by the indirectness of the coordinated duty performance, procuratorial organs in Place B can hardly obtain the parties' complaints about harm suffered from profit-driven justice timely and directly. Accordingly, it is not only difficult for procuratorial organs in Place B to intervene in advance and rectify illegal acts at the investigation stage, but also find it hard to conduct effective verification and relief after profit-driven acts happened. The timeliness and initiative of supervision are therefore seriously impaired. On the other hand, supervision of judicial organs in other regions by procuratorial organs in Place B will encounter information gaps and affect supervisory accuracy. Compared with procuratorial organs in Place A, which can communicate and verify situations directly and conveniently with local judicial organs, procuratorial organs in Place B lack a cooperation mechanism with judicial organs in Place A, and communication of relevant information faces obstacles. Therefore, if they perform supervisory functions only by reviewing written materials, it will be difficult to fully determine whether profit-driven motives or unlawful acts exist, let alone implement direct and effective intervention. It should not be ignored that the procuratorial organ in Place B must become familiar with the law-enforcement and judicial process of the case, which may also reduce the efficiency of procuratorial supervision. Therefore, transferring the case and artificially designating the procuratorial organ in Place B as the supervisory subject will necessarily place these organs in different regions and create obstacles in work coordination. This not only makes it difficult to timely discover and correct unlawful circumstances, but also seriously constrains the effectiveness of supervision.

In addition, supervision by procuratorial organs in Place B faces substantive obstacles because of differences in conviction and sentencing standards between the two places, making it difficult to effectively punish crimes and protect the legitimate rights of private entrepreneurs. China has a vast territory, economic development levels and public security conditions are different in various regions. This directly leads to reasonable differences among judicial organs in different regions regarding the thresholds for certain offenses, especially property crimes. Taking fraud as an example, judicial organs across the country have successively set different amount thresholds for "relatively large amount"<sup>⑩</sup>. Such regional differences in standards constitute a core dilemma of procuratorial supervision that the same case may have different outcomes in different judicial

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<sup>⑨</sup> Under Article 328 of the People's Procuratorate Rules of Criminal Procedure, after the department responsible for arrest and prosecution receives a case transferred for prosecution, where the first-instance case falls within the jurisdiction of another people's court at the same level, it shall transfer the case to the procuratorial organ with jurisdiction or submit it to the common higher-level people's procuratorate for designated jurisdiction, while notifying the public security organ that transferred the case for prosecution. Therefore, after the investigative organ in Place A transfers the case for examination for prosecution, the procuratorial organ in Place A may transfer it to the procuratorial organ in Place B according to appropriateness.

<sup>⑩</sup> The thresholds for the amount required for conviction for fraud differ among regions. For example, under the Implementing Rules for Sentencing Guidelines for Common Crimes (Trial) issued by the Beijing Higher People's Court and the Beijing People's Procuratorate, the starting point for a "relatively large amount" in fraud is 5,000 yuan. In the Notice of the Guangdong Higher People's Court and the Guangdong People's Procuratorate on Determining the Amount Standards for Fraud Criminal Cases, the starting point for a relatively large amount of fraud is set at 6,000 yuan in Category I regions and 4,000 yuan in Category II regions.

jurisdictions.<sup>[18]</sup> As noted above, Place A is often located in an underdeveloped region, and its judicial organs may apply a lower filing threshold to the same case than Place B. Where some cases have reached the filing threshold in Place A and are treated as crimes by local judicial organs, they may not meet the minimum requirements for conviction from the perspective of procuratorial organs in Place B. Procuratorial organs in Place B naturally find it difficult to identify suspicion of profit-driven justice, and have no basis to initiate supervisory procedures. Thus, this supervisory mechanism in effect creates a “supervisory vacuum,” in which certain unlawful acts are difficult for procuratorial organs in Place B to discover and correct in a timely manner because of differences in conviction and sentencing standards, ultimately affecting the effective punishment of crimes and the protection of private entrepreneurs.

### **3.2 Limitations of Supervision by Procuratorial Organs at the Actual Jurisdiction Place**

#### **3.2.1 Information Barriers in Supervision by Procuratorial Organs at the Actual Jurisdiction Place**

In the context of profit-driven justice, even though the procuratorial organ in Place A has statutory supervisory power over these activities, the effectiveness of its supervision is still constrained by the geographical separation between the supervisory subject and the object of supervision, namely the law-enforcement activities occurring in Place B. As stated above, supervision by procuratorial organs in Place B will generate information gaps and judicial costs. By contrast, the disadvantage of supervision by procuratorial organs in Place A lies in the information gaps and judicial costs when finding evidence in Place B. This situation concerns the conduct of profit-driven justice itself and focuses on evidence collection and proof.

First, the objective limitations of trans-regional law enforcement make it impossible for procuratorial personnel in Place A to be permanently stationed at the place where criminal conduct occurred and to conduct continuous supervision. Therefore, where doubts arise about the legality of evidence collection, or where due process is violated through unlawful disposal of property involved in the case or abuse of compulsory measures, procuratorial organs in Place A find it difficult to intervene promptly in key stages and simultaneously perform procuratorial supervision duties, resulting in an absence of supervision. Second, cross-provincial supervision by procuratorial organs in Place A also entails efficiency costs. In difficult and complex cases, it must travel repeatedly to the place where the criminal conduct occurred for direct understanding and review before they can accurately determine whether the judicial process is illegal. Time costs, financial costs and geographical limitations will force procuratorial supervision in Place A to rely more heavily on written review. However, case materials cannot fully reconstruct the law-enforcement situation or verify the process by which evidence was formed. This runs counter to the principle of first-hand review required by procuratorial supervision and greatly weakens the accuracy of fact-finding and the effectiveness of supervision.

In addition, information asymmetry further weakens the precision and effectiveness of supervision by procuratorial organs in Place A, preventing them from fully understanding the process. First, because of objective information barriers in trans-regional supervision, judicial acts risk breaking through the bottom line of procedural justice. Investigative organs engaged in profit-driven law enforcement may abuse technical investigative measures to collect evidence unlawfully, or unlawfully restrict the personal and property rights of private entrepreneurs. By contrast, procuratorial organs in Place A find it difficult to obtain a detailed understanding of the investigative process and to effectively prevent potential or existing procedural violations. Second, the investigative process itself is relatively closed and independent, which also gives investigators opportunities to conceal procedural defects in their law-enforcement process. Procuratorial organs in Place A, lacking full knowledge of the law-enforcement process and sufficient communication with law-enforcement personnel, find it even more difficult to comprehensively grasp clues to procedural violations in trans-regional law enforcement and judicial acts merely through selectively presented materials. Third, information delay makes it difficult for

procuratorial organs in Place A to timely understand the application of urgent investigative measures, and thus to promptly examine and correct their legality. It follows that relying solely on procuratorial organs in Place A to independently assume supervisory duties cannot achieve effective supervision because of information barriers. This precisely highlights the advantage of coordination by higher-level procuratorial organs: they can coordinate different lower-level judicial organs to cooperate, thereby realizing systematic supervision and regulation.

### **3.2.2 Local Interest Chains Constrain Procuratorial Supervision at the Actual Jurisdiction Place**

In addition to information barriers, China's administrative divisions and judicial divisions are highly overlapping, and procuratorial personnel living in localities find it difficult to escape intervention by local governments.<sup>[19]</sup> Local governments take the realization of economic growth and the maintenance of social stability as the goals of public services. However, under assessment pressure dominated by economic indicators, local governments have incentives to improperly intervene in justice so as to realize local fiscal collection or specific economic objectives, thereby providing a breeding ground for collective self-benefiting profit-driven judicial acts.<sup>[20]</sup> Such intervention affects procuratorial organs located in the same place as profit-driven judicial organs, making it difficult for them to free themselves from the constraints of local interests, remain impartial among disputing parties, and achieve judicial independence.<sup>[21]</sup> On the other hand, the exercise of authority by procuratorial organs in Place A inevitably faces constraints from local social relations.<sup>[22]</sup> In cross-provincial law-enforcement cases, the performance of duties by procuratorial organs in Place A may be influenced by local social relations, giving rise to suspicion that they tolerate or favor judicial organs at the same level and within the same territory. Or, in collective external-benefiting justice, there may be no separation between the actual law-enforcement place and the enterprise's place of registration and operation. In such circumstances, procuratorial organs in Place A are constrained by the interests of local private enterprises and entrepreneurs, and their conduct is regarded as an extension of local economic protectionism. In addition, as stated above, such cases involve considerable economic interests: the payment of fines and confiscation proceeds can alleviate local fiscal and tax pressure. Even if procuratorial organs in Place A independently exercise supervisory power according to law and are not interfered with by any judicial or administrative organ, including investigative organs, shared local economic interests may still generate profit-driven motives. In supervising collective self-benefiting profit-driven judicial acts, this mode of performance makes it difficult for the legitimate rights and interests of private enterprises in Place B to be fully protected in Place A; in supervising collective external-benefiting profit-driven judicial acts, it manifests as harm to the legitimate rights and interests of relevant subjects in Place B. Therefore, procuratorial organs in Place A find it difficult to effectively overcome the pressure of local protectionism and to independently and impartially perform legal supervision over local judicial organs.

If the law fails to clearly define the boundary between lawful authorization and unlawful overreach by judicial organs in protecting property, preventing crime and implementing criminal compulsory measures, innocent citizens whose persons and property are at risk will find it difficult to receive effective legal protection. Therefore, the core of resolving the problem of profit-driven justice lies in reconstructing the procuratorial supervision mechanism so that it truly prevents judicial power from being alienated into a profit-seeking tool. This is not only a basic requirement for the operation of judicial power, but also a rational choice for maintaining a law-based business environment.

## **IV. The Positioning of Powers and Responsibilities of Procuratorial Organs in Profit-driven Judicial Acts**

Regarding the subject of procuratorial supervision over profit-driven judicial acts, some deputies to the Fourteenth National People's Congress proposed that cases should be transferred to procuratorial organs at the

location of private enterprises or the habitual residence of entrepreneurs for jurisdiction and supervision.<sup>[23]</sup> In addition, some scholars have proposed the establishment of procuratorates spanning administrative divisions, the purpose of which is to eliminate local interference and ensure that procuratorates independently exercise procuratorial power according to law; this coincides with the requirements for regulating profit-driven judicial acts.<sup>[24]</sup> This paper argues that the specialized supervision work should continue to be led by the Supreme People's Procuratorate, and that the higher-level people's procuratorate at the law-enforcement place should perform procuratorial supervision duties. This supervisory path both accords with existing practical rules for specialized supervision and will effectively regulate improper judicial acts, thereby contributing to the construction of a stable and fair business environment.

#### **4.1 Upholding the Coordinating and Guiding Role of the Supreme People's Procuratorate's Specialized Supervision**

Recently, the Supreme People's Procuratorate established a "Specialized Supervision Zone for Irregular Trans-regional Law Enforcement Involving Enterprises and Profit-driven Law Enforcement and Justice" on the 12309 China Procuratorial Network, and deployed through a meeting the nationwide specialized supervision work of procuratorial organs targeting irregular trans-regional law enforcement and profit-driven law enforcement and justice.<sup>[25]</sup> In addition, the Work Plan on Fully Performing Procuratorial Functions in Accordance with Law and Strengthening Coordinated Performance of Duties to Promote Cyberspace Governance, issued by the Supreme People's Procuratorate, clearly requires the supervision and correction of profit-driven justice involving the internet, and emphasizes that procuratorial organs at all levels should actively improve internal connection, cooperation and coordinated performance-of-duties mechanisms. These efforts show the Supreme People's Procuratorate's attention to rectifying such unlawful acts and protecting the legitimate rights and interests of private enterprises, and have constructed a new approach for specialized cooperation among procuratorial organs at different levels.

First, through specialized supervision, the Supreme People's Procuratorate directly focuses on supervising and correcting profit-driven judicial acts. This specialized supervision zone will be used to directly accept reports and clues concerning such acts, and its establishment lays the foundation for effectively breaking local barriers and avoiding regional factors that interfere with the acquisition of clues. For clues involving major, complex or local-protection-related profit-driven judicial cases, the Supreme People's Procuratorate may direct the higher-level people's procuratorate at the law-enforcement place to conduct supervision directly, or raise the matter for its own supervision. This will not only ensure the authority and enforceability of its own leading supervision, but also prompt procuratorial organs at all levels to perform supervisory duties in a standardized manner under its overall deployment, supervision and guidance, thereby escorting private enterprises in safeguarding their legitimate rights and interests. Second, this specialized supervision work opens a channel for the Supreme People's Procuratorate to effectively understand public opinion and strengthen legal supervision. Through this specialized work, the Supreme People's Procuratorate will systematically sort out common problems and new situations encountered by localities in supervising profit-driven judicial acts, and on that basis promptly formulate and improve relevant opinions on legal application and publish guiding cases, providing unified and clear supervisory standards and operational guidance for lower-level procuratorial organs.

#### **4.2 Specific Supervision by the Higher-level Procuratorial Organ at the Law-enforcement Place**

As noted above, profit-driven judicial acts are often accompanied by local-protectionist interference, alienation of jurisdiction, and closed information barriers, making it difficult for procuratorial organs at the enterprise location, the principal place of criminal conduct, or even the actual law-enforcement place to achieve fair and effective supervision and constraint over profit-driven judicial acts. As to jurisdictional rules for

procuratorial supervision of such acts, compared with transfer to judicial organs at the same level, scholars have successively proposed that cross-regional, complex and major cases should preferentially apply the rules of higher-level jurisdiction and higher-level supervision, so as to realize fairness and efficiency in case handling.<sup>[26]</sup> <sup>[27]</sup>It is noteworthy that the Ministry of Public Security recently issued the Provisions on Jurisdiction over Cross-provincial Enterprise-related Criminal Cases by Public Security Organs, which expressly states that major cross-provincial enterprise-related criminal cases shall be subject to higher-level jurisdiction and filed for investigation by public security organs at the level of cities divided into districts. This notice demonstrates high attention to profit-driven judicial cases that are difficult, complex, and disputed in legal application. The elevation of the jurisdictional level of cases also objectively provides institutional support for higher-level people's procuratorates to simultaneously carry out higher-level supervision and strengthen rigid constraints. This paper argues that, under the overall guidance of the Supreme People's Procuratorate's specialized supervision work, judicial supervision of profit-driven judicial acts led by the higher-level procuratorial organ at the law-enforcement place not only accords with the current legal framework, but also has sufficient normative basis and practical feasibility.

First, at the level of normative basis, Article 24 of the Organic Law of the People's Procuratorates authorizes higher-level procuratorial organs to directly handle cases under the jurisdiction of lower-level procuratorates, designate jurisdiction, and revoke or alter decisions of lower-level procuratorates. This provision provides direct legal authorization for the higher-level procuratorial organ at the law-enforcement place to exercise supervisory power. The Supreme People's Procuratorate further clarifies in the Specialized Supervision Work Plan for Irregular Trans-regional Law Enforcement and Profit-driven Law Enforcement and Justice that major cases involving cross-provincial issues, enterprises, and complex interest relations shall be directly handled or supervised through listing by provincial people's procuratorates, with the Supreme People's Procuratorate conducting overall coordination, tracking and effectiveness evaluation. This mechanism draws relatively clear hierarchical responsibilities: the Supreme People's Procuratorate collects clues for specialized supervision and conducts supervision and policy guidance over major cases; provincial people's procuratorates directly handle, designate for higher-level jurisdiction, and coordinate major and complex cases within their jurisdictions. Apart from clues obtained through specialized supervision, where parties apply, procuratorial organs discover matters proactively in the performance of duties, or jurisdictional disputes arise in a case, municipal procuratorates shall supervise ordinary profit-driven judicial cases within their jurisdictions and request higher-level handling for major and difficult cases. Under this division of labor, supervision led by the higher-level procuratorial organ at the law-enforcement place is feasible and advantageous, and can fully realize the institutional value of higher-level supervision.

Second, at the level of judicial practice, the operation of procuratorial power must abide by principles such as judicial justice and power constraint, and higher-level supervision is precisely the concretization of these principles in the jurisdictional system.<sup>[28]</sup> The principle of judicial justice requires the supervisory subject to possess independence, neutrality and authority. In specialized supervision, supervision elevated to the provincial people's procuratorate, or higher-level supervision by the higher-level procuratorial organ at the law-enforcement place over clues to ordinary profit-driven judicial cases, is significantly superior to the traditional procuratorial supervision model in three respects. First, it has the advantage of avoiding the risk of ultra vires action. This organ has clear and statutory supervisory authority over lower-level judicial organs in the same territory; the supervisory subject is qualified and its powers and responsibilities are clear. Supervision by it therefore avoids the ultra vires risk faced by procuratorial supervision in Place B. Second, this supervisory mechanism has the advantages of smooth communication channels and unified legal application. On the one hand, the higher-level procuratorial

organ at the law-enforcement place may rely on the vertical leadership mechanism to coordinate investigative organs, procuratorial organs and courts within its jurisdiction to conduct collaborative verification, effectively reducing communication costs and efficiency losses caused by trans-regional supervision. On the other hand, regional differences exist in the standards on which procuratorial organs in other regions rely when exercising supervisory power. By contrast, judicial organs at the actual law-enforcement place have formed relatively unified case-handling standards, and it is more conducive to the unity of legal application for the procuratorial organ in that place to advance specialized supervision. Third, this “higher-level supervision” mechanism will effectively improve information blockage and local interference in supervision by Place A. In specialized supervision, the Supreme People’s Procuratorate takes breaking the constraints of local economic chains as an important objective in strengthening the supervisory responsibility of procuratorial organs at all levels. Compared with the original-level procuratorial organ at the law-enforcement place, its higher-level organ is less affected by local interpersonal relationships and fines and confiscation proceeds, and can conduct supervision more neutrally and impartially.

The principle of power constraint requires supervisory power to be independent from the power being supervised, thereby forming rigid constraints. Procuratorial organs at the location of private enterprises face limitations in performing their duties and cannot directly establish a supervisory relationship with judicial organs in other regions or effectively constrain abuse of power by them. Even if they acquire supervisory jurisdiction over such acts through case transfer, their supervisory effectiveness remains limited. As for procuratorial organs at the same level in the actual law-enforcement place, although they have a direct procedural connection with the judicial organs conducting profit-driven law enforcement, judicial local protectionism and the closed nature of information in trans-regional law enforcement constrain their ability to perform the function of checks and balances. Against this background, after the Supreme People’s Procuratorate obtains relevant clues through the specialized supervision channel, designating the higher-level procuratorial organ at the actual law-enforcement place to conduct supervision better accords with the practical requirements for the operation of supervisory power. This mechanism breaks the limitations of the trans-regional procuratorial supervision model and forms more rigid, authoritative and vertical constraints over judicial power within the same territory. At the same time, it effectively overcomes the drawbacks of information asymmetry, namely the difficulties faced by procuratorial organs at the law-enforcement place in directly grasping evidence, understanding the judicial process and intervening, and the difficulties faced by procuratorial organs at the enterprise location or principal place of criminal conduct in low efficiency and difficult supervision. Using higher-level supervisory power to check lower-level judicial power will also effectively break the influence of local protectionism, keep the operation of power within a framework of normative constraints, and ensure that supervision does not become a mere formality and that rectification is implemented. It follows that participation in supervision by the higher-level procuratorial organ at the law-enforcement place is the optimal path to achieving an organic unity of substantive justice and procedural justice, supervisory effectiveness and judicial authority.

#### **4.3 Severing the Invisible Link Between Confiscated Proceeds and Case-handling Expenses**

The root of profit-driven judicial acts lies in the direct connection between the power of judicial organs and economic interests. Under the current system, fines and confiscation proceeds are indirectly transformed into case-handling expenses and even benefits for relevant personnel through the local fiscal return mechanism, thereby implicitly incentivizing judicial organs in China to generate revenue through case handling. In response to this judicial disorder, Chinese scholars have proposed that fines and confiscation proceeds should be placed under central control. Professor Liu Yanhong argues, from the perspective of interpretation in favor of the defendant, that the “state treasury” should be limited to the central treasury;<sup>[29]</sup> Deputy Zhu Zhengfu also suggested amending

laws and judicial interpretations to place criminal fines and confiscation proceeds under central finance.<sup>[30]</sup> In this regard, the author affirms the necessity of establishing a system under which fines and confiscation proceeds are turned over to the state treasury, while also strengthening the responsibility of provincial finance departments for the unified management of case-handling expenses of judicial organs and reducing grassroots organs' dependence on fines and confiscation proceeds. In addition, procuratorial organs should actively perform legal supervision duties and substantively strengthen supervision over the guarantee and use of funds by means such as submitting specialized procuratorial suggestions to people's congresses at the same level. This is in fact an important embodiment of their legal supervision power in the reform of the system for turning over fines and confiscation proceeds and in the guarantee of judicial funds. Under this system, once the profit-driven impulses generated by fiscal pressure on judicial organs are eliminated, the focus of their work will shift more firmly to the impartial adjudication of cases and procedural justice, rather than to the economic interests that may accompany the cases.

#### **4.4 Classified Supervision Targeting Three Types of Profit-driven Judicial Acts**

With respect to the three types of profit-driven judicial acts classified above, higher-level procuratorial organs at the law-enforcement place should establish supervisory mechanisms featuring proactive review and rigid constraints, and eliminate such judicial disorder through precise and differentiated supervisory measures. Individual self-benefiting profit-driven judicial acts are typical manifestations directly damaging the image of judicial organs, and they should be constrained through strengthened procuratorial supervision in order to maintain judicial justice. First, higher-level procuratorial organs at the law-enforcement place should fully use their power of investigation and verification. Where parties report that judicial personnel refuse to file cases that should be filed, or force filing when the filing standards are clearly not met, procuratorial organs should closely monitor whether judicial personnel within their jurisdictions take the opportunity to solicit bribes, neglect duties, or abuse power in violation of laws and discipline. Procuratorial organs should also focus on supervising investigators' use of criminal compulsory measures and disposal of property involved in cases, as well as whether judges render judgments contrary to law for improper interests, and should conduct full-process supervision over the procedures for proposing and approving commutation and parole. Second, higher-level procuratorial organs at the law-enforcement place should perform supervisory duties in a classified manner according to the results of investigation and verification. Where judicial personnel are suspected of ordinary duty-related violations, procuratorial organs should issue notices to correct violations or procuratorial suggestions to their judicial organs according to law and urge rectification. Where evidence shows that they have committed duty-related crimes within the jurisdiction of procuratorial organs, the higher-level procuratorial organs at the law-enforcement place should file cases for investigation according to law. Where clues to duty-related crimes under the jurisdiction of supervisory commissions are discovered, the clues and preliminary evidentiary materials should be promptly transferred to the supervisory commission at the same level as the higher-level procuratorial organ at the law-enforcement place for handling. Furthermore, procuratorial organs may promptly publish typical cases of individual self-benefiting profit-driven justice that they have investigated, thereby warning judicial personnel at all levels to perform duties according to law and strengthening deterrence.

Regarding the supervision of collective self-benefiting profit-driven judicial acts, when higher-level procuratorial organs discover that judicial organs within their jurisdictions have seized, distrained or frozen large amounts of property involved in cases, or that there is a possibility of overbroad compulsory measures, they should immediately initiate supervisory procedures and require judicial organs to provide relevant evidence to prove that the frozen property involved in the case has a direct connection with the case, or that the use of compulsory measures is necessary and conforms to the principle of proportionality. Taking the Yitan Technology case as an example, higher-level procuratorial organs should perform supervisory duties according to law and

require judicial organs to provide evidence such as the tax records and audit reports of the involved enterprise, so as to prove the legality and necessity of the freezing measures. If judicial organs fail to provide sufficient and valid evidence as required, higher-level procuratorial organs should presume according to law that their acts exceeded statutory authority and scope and are suspected of profit-driven justice. On this basis, procuratorial organs have the power to issue notices to correct violations, order judicial organs to immediately lift improper compulsory measures, and initiate investigation procedures against relevant responsible persons. In addition, higher-level procuratorial organs at the law-enforcement place may establish a filing system for the disposal of large-value property, blocking at the source profit-driven judicial activities carried out by judicial organs to directly seek local interests. Under Article 3 of the Provisions on Jurisdiction over Cross-provincial Enterprise-related Criminal Cases by Public Security Organs, major profit-driven judicial cases involving an amount of more than 50 million yuan shall be filed for investigation by higher-level public security organs. In coordination with this rule, where judicial organs responsible for implementation intend to take disposal measures against property of involved private enterprises in a single amount or cumulative amount exceeding RMB 50 million, they must submit a filing application to the procuratorial organ before implementation. The procuratorial organ shall focus on reviewing whether the property to be disposed of is related to the criminal facts and whether the judicial act is reasonable. This system will effectively block profit-driven motives of judicial organs and ensure that their acts strictly comply with statutory procedures and the principle of proportionality.

Compared with the first two types of acts involving direct profit seeking, collective external-benefiting profit-driven judicial acts are more deceptive in their harms. Judicial organs often conduct judicial activities in the name of “safeguarding business reputation and optimizing the business environment,” but in substance they replace the legal yardstick with the demands of local enterprises and abuse judicial power to improperly intervene in economic disputes. In this regard, the higher-level procuratorial organ of the procuratorial organ at the law-enforcement place may conduct supervision by establishing a mandatory filing mechanism. Where judicial organs are negligent in investigating illegal acts of specific key enterprises within their jurisdictions, or initiate filing and investigation against market subjects involving the interests of such enterprises, they should be required to report to the higher-level procuratorial organ within a prescribed time limit and submit detailed reasons and legal basis. After receiving the filing materials, the higher-level procuratorial organ should focus on reviewing the legality of the judicial act and the sufficiency of its factual basis, and further determine whether the judicial organ is suspected of selective law enforcement driven by improper interests. In addition, to further prevent such judicial acts, higher-level procuratorial organs at the law-enforcement place should strengthen supervision over criminal trial and execution. In trial supervision, they should focus on reviewing the application of law and rules of evidence as well as the reasonableness of adjudication rules. In execution supervision, they should strive to discover and correct negative execution and selective execution, ensuring the fair realization of adjudication results.

## V. Conclusion

The healthy development of the private economy is vital to China’s society. Profit-driven judicial acts, however, not only erode judicial credibility in China, but also directly damage the legitimate rights and interests of private enterprises and entrepreneurs. Through empirical research and typological analysis, this paper attempts to systematically sort out the characteristics and types of such acts, and observes that under traditional procuratorial supervision rules, supervision by the actual law-enforcement place or its higher-level procuratorial organ often faces difficulties. Accordingly, the paper preliminarily explores a possible path for improvement: at the macro-rule level, specialized supervision led by the Supreme People’s Procuratorate is envisaged, and the

higher-level organ of the procuratorial organ at the law-enforcement place is tentatively expected to directly exercise jurisdiction; at the micro-rule level, the construction of a system under which fines and confiscation proceeds are turned over to the central government should be maintained, and differentiated supervisory strategies should be adopted for the three types of profit-driven judicial acts. This envisioned supervisory framework may provide one possible direction for effectively blocking interference by local interests and realizing judicial justice. Of course, this paper's discussion of the specialized supervision system remains preliminary, and its specific initiation conditions and procedural details require more in-depth and meticulous future research. It is hoped that this preliminary reflection will draw greater attention, so that the procuratorial supervision system for profit-driven judicial acts may, through continuous exploration in theory and practice, gradually become a useful mechanism for safeguarding the rule of law and optimizing the business environment.

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