

Study on the People-oriented Administrative Legislation

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Abstract—Since the 18th National Congress of the Communist Party of China, the people-oriented ideology has become the guiding ideology of the whole party and runs through all aspects of ruling the country, and has become a major policy of China. As an administrative and legislative act with both the legislative and administrative attributes, it is also necessary to adhere to the people-centered principle. Depending on its own nature and the relevant laws, it is necessary to establish an administrative and legislative system centered on the people.

Keywords—people-oriented; administrative legislation; principle

I. INTRODUCTION

Adhering to the people as the center is the fundamental position and core content of Xi Jinping's socialist ideology with Chinese characteristics in the new era. This idea was initially proposed and gradually developed at the 18th National Congress of the Communist Party of China. Xi Jinping expressed his core values in a series of meetings. At the meeting of the Standing Committee of the 18th Central Political Bureau held in 2012 with Chinese and foreign journalists, Xi Jinping clearly pointed out, "The people's longing for a better life is our goal." In 2013, Xi Jinping clearly stated in his speech at the first meeting of the 12th National People's Congress that "The Chinese dream is ultimately the people's dream. It must rely on the people to achieve it and must continue to benefit the people." Taking the people's yearning for a better life as the goal of the party's struggle and the realization of the Chinese dream also needs the help of the people, which has clearly demonstrated the connotation of the people-oriented thinking. In the Fifth Plenary Session of the 18th CPC Central Committee, Xi Jinping formally proposed to adhere to the people-oriented thinking, and in the 19th National Congress of the Communist Party of China held in 2017, adhere to the basic principle of raising the people-oriented thinking to governing the country. The 19th National Congress of the Communist Party of China pointed out that "the people are the creators of history and the fundamental force that determines the future and destiny of the party and the country. It is necessary to uphold the people's dominant position, persist in building the party for the public, govern for the people, and practice the fundamental purpose of serving the people wholeheartedly. Carrying out the party's mass line into all the activities of

governing the country, taking the people's longing for a better life as the goal of struggle, and relying on the people to create historical greatness." This is another major breakthrough in the ruling style following the party's adherence to the principle of serving the people wholeheartedly and the people's supremacy. The resulting people-oriented ideology has become a party member cadre at all levels and a guide to action for all work under new historical conditions.

According to the contents of the report of the 19th National Congress of the Communist Party of China, combined with the relevant speeches of General Secretary Xi Jinping since the 18th National Congress of the Communist Party of China, the persistence of the people-oriented connotation can be combed into four aspects: the people's longing for a better life is the goal of struggle. The value of the people's value as the main body has fundamentally answered the question of "who is for whom"; relying on the people to create historical greatness, embodies the people's dominant position in practice, and fundamentally answers the question of "depending on who"; the people are the reviewers. It embodies the people's status as the main body of judging, and fundamentally answers the question of "who evaluates"; insisting on the people being the masters of the country, embodying the people's position as the main body of power, fundamentally answering the question of "who is the real master."

Adhering to the people-oriented thinking as the party's ruling the country should be promoted to the national will through legal procedures and become part of the legal system. The ruling party's policies are closely related to the law, and the economic foundation, guiding ideology, basic spirit and historical mission on which the two depend are based are basically the same [1]. In China, the Constitution and the law determine the leadership of the Communist Party of China, while the Party implements this leadership through policies. With the construction of a socialist rule of law country, China should gradually rely on the party's policies to gradually transition to relying on the party's policies, but also to emphasize handling the law, governing the country according to law, and administering the country according to law. Therefore, as an indispensable administrative legislation in our country's legislative work, adhering to the people-oriented guiding ideology should be its proper meaning.

II. ADMINISTRATIVE LEGISLATION SHOULD ADHERE TO THE PRINCIPLE OF PEOPLE FIRST

The establishment of a country ruled by law in China is later than that of a developed country in the West. The rule of law is weak. However, economic and social development is very rapid. In terms of the need for administrative legislation, it is consistent with the rule of law to develop the country. The Constitution of the People's Republic of China (hereinafter referred to as the Constitution) and the Legislative Law of the People's Republic of China (hereinafter referred to as the "Legislative Law") stipulate administrative legislation. In our country, administrative legislation includes two meanings, broad and narrow. The broad administrative legislation refers to the administrative organ's behavior of formulating all administrative norms, while the narrow administrative legislation refers only to the regulations of the Constitution, the Legislative Law, the Administrative Regulations, and the Regulations and Procedures. The department of the State Council formulates departmental regulations, and the actions of provincial governments and district/city governments formulate local regulations. This paper focuses on the narrow sense of administrative legislation. It should be guided by the people-oriented orientation in the process of administrative legislation, embodying the people's dominant position, which is embodied in the nature of administrative legislation requiring the people as the center and the public to actively participate in administrative legislation.

A. *Legislative and Administrative Nature of Administrative Legislation*

Since administrative legislation is a legislative activity carried out by a specific administrative organ, it is different from ordinary administrative enforcement behavior, and is different from pure legislative action of power organs [2]. That is, administrative legislation has both administrative and legislative attributes. The legislative nature of administrative legislation is manifested in the following aspects. First of all, dynamic administrative legislation is the act of the administrative organ to formulate social norms on behalf of the public power in the name of the state. The procedure is similar to that of the legislature, including project establishment, drafting, review, decision, publication and interpretation. Secondly, the static administrative legislation, its rules include assumptions, behavior patterns and legal consequences, which are guaranteed by state enforcement. Third, like the legislature legislation, administrative legislation is part of the unified multi-level legislative system in China. Legislation should not contravene the upper-level law, and should maintain the unity of the legal system. Finally, in the relationship with society, legislation should serve social governance, should meet the needs of society, and work hard to form a good interaction with the development of society, and administrative legislation is no exception. In short, administrative legislation is not only procedurally similar to the legislation of the legislature, but as a norm of law, it should conform to the general requirements of the law, namely, the regulatory requirements, the system requirements and the social requirements.

The administrative nature of administrative legislation is mainly manifested in three aspects: subject, nature and purpose. The main body of administrative legislation is the administrative organs, including the State Council and its departments, the provincial people's governments, and the people's governments of the districts and cities. The nature of administrative legislation is administrative management activities, which are generated around administrative management needs and operate around administrative management. The purpose of administrative legislation is to fulfill the job function of the executive organ, and its essence is abstract administrative action. The main body of administrative legislation is the executive organ of the power organ, and it is its responsibility to enforce the law and the superior law. Administrative legislation is often to refine the law and the superior law, improves its operability, and brings convenience to the implementation of the upper law.

Since administrative legislation has both legislative and administrative attributes, it must conform to the principle system of legislation and must comply with the relevant requirements of administrative activities. This is also in line with the people's central thinking. Article 2 of the Constitution stipulates that all powers of the People's Republic of China belong to the people. In accordance with the law, the people manage state affairs, manage economic and cultural undertakings, and manage social affairs through various channels and forms. This is a concrete manifestation of the people-oriented thinking in the Constitution. It is also the guiding ideology that the state must resolutely implement in all aspects. Of course, it must also be observed in the process of administrative legislation. Article 5 of China's "Legislation Law" stipulates that legislation should reflect the will of the people and promote socialist democracy. This article stipulates that in the process of the legislative state, the people's will should be adhered to and the needs of the people should be taken as the purpose and principle of the legislation. Of course, it is also required that the administrative legislation must implement this basic principle and take the interests of the people as the benchmark. As an administrative activity, administrative legislation must adhere to the basic principles and positions of administrative law, and must adhere to administrative statutory, administrative equilibrium and administrative justification. The administrative statutory principle is mainly to abide by the provisions of the superior law and relevant laws in the process of administrative legislation, and to adhere to legal reservations and legal priorities. Within the scope of the national legal order, certain matters must be exclusively regulated by the legislators, and the administrative organs must not make provisions on their behalf.

As an administrative activity, administrative legislation must adhere to the basic principles and positions of administrative law, and must adhere to administrative statutory, administrative balance and administrative justification [3]. The administrative statutory principle is mainly to abide by the provisions of the superior law and relevant laws in the process of administrative legislation, and to adhere to legal reservations and legal priorities [4]. Within

the scope of the national legal order, certain matters must be exclusively regulated by the legislators, and the administrative organs must not make provisions on their behalf. Article 3 of the Regulations on the Formulation of Regulations clearly stipulates that: in formulating regulations, it is needed to implement the party's line, principles, policies, and decision-making arrangements, follow the legislative principles established by the legislative law, and comply with the provisions of the Constitution, laws, administrative regulations, and other superior laws. Without laws or the basis of administrative regulations, decisions, and orders of the State Council, departmental rules may not set norms that derogate from citizens, legal persons, and other organizations' rights or increase their obligations, and may not increase the power of the department or reduce the statutory duties of the department. Without the basis of laws, administrative regulations, and local regulations, local government regulations may not set norms that derogate from citizens, legal persons, and other organizations' rights or increase their obligations. The law retains strict reservations to strictly distinguish between the legislative power of the state and the power of administrative legislation. Its fundamental purpose is to ensure the supremacy of the legislative power of the state, and the matters retained by the law. The administrative organ may not create its own regulations without authorization, and prevent the self-expansion of the administrative legislative power. In terms of legal priority, it is reflected in the superior position of the law to administrative legislation, that is, administrative regulations and rules, that is, the law has the power to regulate and ruling administrative legislative actions in the ultimate sense, and is the ultimate guideline and the only criterion for administrative legislative actions. In short, whether it is legal reservation or legal priority, it must be strictly followed in the process of administrative legislation to prevent the extreme expansion of administrative legislative power and cause damage to the rights of the people. Therefore, in this sense, administrative legislation must also be centered on the people. . The principle of administrative equilibrium refers to adhering to substantive justice in the process of administrative legislation, including the three sub-principles of equal treatment, prohibition of excessive and trust protection. In the legislative process, it is necessary to adhere to the principle of equality, treat the same, oppose discrimination, and choose a means that is absolutely necessary for the realization of the public interest and the least restrictive or harm to the interests of the parties, in order to protect the interests of the people, while administrative legislation may not be arbitrarily revoked, or abolish an act; otherwise the legitimate interests of the parties must be reasonably compensated. It can be seen that adhering to the principle of balance in the process of administrative legislation is based on the principle of protecting the interests of the people, and the administration is carried out in the principle of the least damage. The administrative power of the administrative organs is greatly restricted to protect the rights and interests of the people. Otherwise, it must be compensated. The administration of justice mainly includes the principle of public participation and openness in the process of administrative legislation.

This part of the article focuses on the next section of the article. In summary, it can be seen that from the legislative and administrative attributes of administrative legislation, it is necessary to adhere to the people as the center, adhere to the interests of the people, and not to harm the rights and interests of the people stick.

B. Administrative Legislation Must Adhere to the Principle of Public Participation

In theory, the effectiveness of public participation in administrative legislation is diversified: through the supervision of the legislative process, the abuse of administrative legislative power is prevented, the expression of broad and effective interests is realized, the mutual coordination of multiple interests is guaranteed, and the quality and effectiveness of administrative legislation are improved. However, in terms of substantive purposes, public participation in administrative legislation is a concrete manifestation of the people expressing their own demands, participating in state management activities, actively exercising their rights, and safeguarding their own interests. It is also a vivid example of administrative legislation that must embody the people as the center. The profound significance of the status of being the master of the family, the specific significance of public participation in administrative legislation is reflected in the following aspects:

Public participation in administrative legislation helps to improve the political legitimacy of administrative legislation and enhance the social benefits of administrative legislation. Democracy is not only a decision-making mechanism, but also a management mechanism. In addition to making decisions and managing through democratic elections, the people should also participate in expressing their will, controlling and influencing the government's decision-making management. In the administrative legislation, due to the non-electoral nature of the administrative organs, the organization of the head of the administrative organs is responsible for the organization, and the administrative organs pay attention to the administrative efficiency of the working methods to make the administrative legislation further away from democracy. The public participation of administrative legislation adapts to the change trend of the diversification of administrative power, the non-regulation of administrative behavior, and the negotiation of administrative procedures, thus making administrative legislation more political and legal, and easier to be trusted by the people being managed. Administrative legislation is more effective. In this sense, public participation in administrative legislation may degrade administrative efficiency on a case-by-case basis, but in the long run, it enhances the social benefits of administrative legislation.

Public participation in administrative legislation helps to protect the basic rights of citizens, prevent the abuse of administrative power, and ensure the impartiality and rationality of administrative legislation. In order to protect the basic rights of citizens, it is first required to give individuals the right to resist coercion. The minimum requirement is the principle of natural justice. It requires that the exercise of power must listen to the opinions of others

when it is disadvantageous to others, and cannot make its own judges. Public participation in administrative legislation is the procedure for "listening to the opinions of interested parties". Because power is relatively powerful, it places special emphasis on regulating power, safeguarding rights, emphasizing the responsibility of public power, and emphasizing the relief of private rights that have been violated. The major practical significance of the public's participation in administrative legislation is to make the operation of administrative power from "black-box operation" to openness, emphasizing the negotiation between the administrative body and the public in the legislative process to limit the abuse of administrative power and ensure the impartiality of administrative legislation. At the same time, the public participation of administrative legislation provides a realistic and operational standard for the parliamentary organs and judicial organs to supervise and control administrative legislative power and relieve citizens' rights, laying a foundation for controlling administrative legislation.

The long-term significance of public participation in administrative legislation is to promote the generation and realization of the rule of law. The order of the rule of law is not created by human beings, but by the activities of the people of the social subjects. This is the value of freedom for the rule of law. In the process of pursuing the maximization of their own interests, social subjects have effectively utilized the resources that all others cannot possess, promoted the progress of society, and gradually formed a stable and spontaneous order. Public participation in administrative legislation has led to the beginning of the rule of law in the legislative phase.

The above theoretically discusses the positive significance of public participation in administrative legislation. From the perspective of China's legislative practice, there are also laws to follow. Article 5 of the "Law of the Legislative Law" stipulates that the legislation shall be open to the public and that the people shall participate in legislative activities through various channels. Article 67 stipulates that in the process of drafting administrative regulations, the opinions of relevant organs, organizations, representatives of the people's congresses and the public should be widely heard. Listening to opinions can take various forms such as symposiums, argumentation meetings, and hearings. The draft administrative regulations shall be announced to the public for comments, unless otherwise decided by the State Council. Article 13 of the Regulations on the Formulation of Administrative Regulations stipulates that: drafting administrative regulations, the drafting department shall widely listen to the opinions of relevant organs, organizations and citizens. Those involved in the hot and difficult issues of general public concern and the prominent contradictions encountered in economic and social development, derogating from the rights of citizens, legal persons and other organizations or increasing their obligations, and having important influences on the public, such as major interests, should be discussed and discussed. Listening to opinions can take many forms such as symposiums, argumentation meetings, and hearings. Similar

provisions were made in Article 15 of the Regulations on the Formulation of Regulations. Therefore, both in theory and in actual legal provisions, public participation in administrative legislation has realistic meaning and legal basis, and the more important meaning of sublimation behind it, that is, public participation in administrative legislation reflects the people as the center. The People's Center requires the people to become participants, evaluators and practitioners, and the people fully express their opinions in the process of participating in the administrative legislation, and have the right to make recommendations on the problems arising in the implementation of the legislation, which are to maintain legal dignity. It is self-evident that the implementation of the law, the establishment of a society ruled by law, and the realization of the rule of law.

III. CONCLUSION

The people-oriented development ideology is a profound scientific significance of the new generation of party leaders, such as General Secretary Xi Jinping, based on the experience of the previous generation. It is also a party policy that must be practiced in the future development of China. The administrative and legislative actions that are both legislative and administrative must also adhere to the people-oriented, and behind this, in addition to profound theoretical significance, and there is a realistic legal basis. "The people are higher than the country, the people are not serving the country, and the state is serving the people." Whether it is a country and whether a political party or a society must pay attention to the importance of the people. The people are the creators of history and an important force that cannot be replaced by any one. Therefore, it is far from enough to insist on the people as the center in administrative legislation. The interests of the people must be supreme in all aspects of the rule of law government, the development of the rule of law, administrative supervision, and information disclosure, and create a harmonious society with a rule of law that the people are satisfied with.

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