

# Theoretical Research on the Supervision of National Supervision Power

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**Abstract:** At present, major achievements have been made in deepening the reform of the national supervisory system. The national supervisory system with Chinese characteristics has taken initial shape. The supervisory power has become the public power of the state, alongside the legislative power, the executive power and the judicial power. Based on the concept, content and attribute of the national supervisory right, the problems existing in the supervision system of the national supervisory right are recognized in this paper when some Suggestions are also put forward.

## 1. Introduction

Generally speaking, supervision is the supervision of the public power holders by the ruling class through the officials or institutions established within their regimes to prevent the willfulness of their powers to breed corruption, thereby improving administrative efficiency and maintaining the ruling order. In the current environment of the reform of the supervisory system, "supervision" no longer refers to a function of the supervisory organ set up within the administrative system. The term "administrative supervision" no longer exists, replaced by "national supervision". It is necessary to define the subject, object and content of the national supervisory power completely and accurately.

The supervisory authority has three powers of supervision, investigation and disposal. First of all, the power of supervision generally refers to a political right enjoyed by citizens, and is one of the important ways for citizens of our country to participate in the management of state affairs. The power of supervision under the national supervision system refers to the power to conduct public education on public officials and to supervise and inspect their performance of duties, use of power, integrity and ethics [1-2]. Second, the investigative power of the Supervisory Committee is the power to investigate suspected corruption and bribery and other job violations and crimes. Finally, the establishment of a centralized, efficient and authoritative anti-corruption agency must inevitably give it the power to finalize the law after the investigation.

Therefore, the national supervisory power refers to the power that our supervisory organs, namely the supervisory committees at all levels, exercise independently in accordance with the provisions of the law, and supervise, investigate and dispose of the violations of duties and crimes committed by all public officials who exercise public power.

## 2. The Theoretical Basis for Supervision of National Supervision Power

In the field of western power supervision theory, Locke not only initiated the theory of state separation of powers, but also established the principle of moral double restriction and supervision. In Locke's view, the monarch should be restricted not only by the conventions in the historical tradition of his country, but also by the traditional moral law. He believed that the ruler had a priori responsibility for the society and that this responsibility must operate within the framework of law. However, Locke's power supervision thought is difficult to make a simple, clear and straightforward expression in logic, and it does not provide future generations with a clear power supervision implementation method and significance, so it has certain limitations.

Montesquieu, a French enlightenment thinker, discussed state power in detail in his work on the spirit of law based on the theory of separation of powers put forward by Locke. He divided the state

power into three types according to its content and nature -- legislative power, executive power and judicial power, and realized the self-restraint of power through the mechanism of checks and balances within the state power system.

However, we recognize the limitations of the Western model of decentralization and checks and balances, which only involve the distribution and restriction of state power in the "horizontal" relationship, and do not involve the relationship between representative organs and voters, nor between institutions [3]. The distribution of power and responsibility does not even involve the "vertical" distribution of state power.

It is particularly important to study the marxist thought of power supervision to strengthen the supervision of public power and fight against corruption. First, we will give full play to the people's supervisory power. Marx and Engels believed that all public officials must work under public supervision. Marx proposed that all the government's administrative activities should be open, accept the supervision of the people, and give play to the supervision of the people. The people should have the right to recall elected deputies, and more conditions should be created for the people to participate in the supervision of public power. Second, we will attach importance to building a legal system. In Marx's opinion, regulating the scope and procedure of the exercise of power with the legal system is effective enough to restrict and supervise the power. Third, the establishment of special supervisory organs. Strengthening inner-party supervision is an important part of marxist power restriction and supervision thought. Marx believed that the establishment of a special party power supervision organ in the proletarian party can better supervise all the activities of the party. Although as a result of the limitation of the conditions of the society at that time, the power restriction supervision thought of marxism have not through the establishment of the corresponding social supervision system to implement, but Marx and Engels theory about how to supervise power thoughts and practical experiences to our country current we will deepen reform of the supervisory system, perfect the supervision of national supervisory authority is of great theoretical significance and practical significance.

Accelerating the construction of a socialist rule of law system with Chinese characteristics is to strengthen legislative work. A perfect legal system is an inevitable requirement for building a socialist rule of law system with Chinese characteristics, and it is also a prerequisite and basis for achieving a comprehensive rule of law. In the context of comprehensively governing the country according to law, the implementation of the supervision system reform also requires the guidance and guarantee of relevant laws. In addition, our country is a dictatorship of the proletariat. The masses of the proletariat are the masters of the state, and the exercise of the public power of the state is also aimed at satisfying the will of the vast majority of the people and safeguarding the interests of the vast majority of the people. Therefore, under the guidance of the idea of the status of the people as the main body, China should supervise the state's supervisory power and put the power in the cage of the system. This is an important foundation for protecting the legitimate rights of the people and an important manifestation of the Communist Party of China serving the people wholeheartedly. It can also reflect the inevitable requirement of "all state power belongs to the people" in our constitution.

### **3. The Realistic Basis for the Supervision of National Supervision Power**

The reform of the national supervisory system integrated the powers of administrative supervision and prevention of administrative violations that originally belonged to the government, and the powers of anti-corruption, bribery, infringement, and crime investigation that originally belonged to the procuratorial organs into the national supervisory power, which realized the anti-corruption forces and The integration of resources builds a centralized and unified corruption governance system [4-5]. However, the reformed supervisory commission will not become a super institution, and will there be the problem of over-expansion of functions, which leads to the expansion and alienation of power?

As supervisors, supervisory organs should implement the standards and requirements of their own team building, accurately identify and prevent corruption and erosion from the outside,

improve their own resistance ability, and avoid the problem of self-alienation. To solve this problem, it is necessary to carry out supervision and restriction on the work of supervisory organs through internal and external forces. As the front line of the fight against corruption, internal corruption problems, if not properly addressed, will be endless, which will undoubtedly weaken the authority and credibility of the supervisory organs and even the party and the state.

The power of national supervision includes the powers of interrogation, lien, restriction of exit, and the rights of seizure, seizure, freezing, inquiry, search, search, and other rights that restrict the personal freedom of the person under investigation, including the rights of citizens' property rights, freedom of communication, and secrets of communication.

The supervision and restriction of the lien in the national supervision law alone is not enough to prevent the infringement of citizens' legal rights. Between the supervisory organs and the monitored, the monitored is in a weak position. Once the state supervision right is abused, it will cause infringement on citizens' legal rights of person and property. Therefore, it is necessary to supervise and restrict the supervisory commission, make it carry out the supervisory work according to the statutory limits of authority and procedures, and protect the legitimate rights of citizens.

#### **4. Suggestions on the Supervision of the National Supervisory Authority**

First, a special supervisory committee should be set up. China's constitution provides that the National People's Congress and its standing committee may, when they deem it necessary, set up committees of inquiry on specific issues and, on the basis of their reports, make corresponding resolutions. But this kind of practice has its limitation, it belongs to the specific supervision, in the actual work is difficult to carry out the norm. Referring to the western countries such as Sweden and the United Kingdom, we should learn from many aspects. For example, Sweden set up a standing committee of the constitution in the parliament, which is directly responsible for the supervision of the parliamentary ombudsman, while Britain set up a special committee of eleven members in the parliament to coordinate and manage the work of the office of the ombudsman.

Secondly, it is necessary to define the limits of supervisory authority over judicial authority. In terms of whether the supervisory right exercised by the supervisory commission is on human rights or on administrative rights, the academic circles generally agree that the supervisory right exercised by the supervisory commission is on human rights rather than on administrative rights, and it is on the supervision of public officials of public power organs rather than on the supervision of public power organs or judicial organs. Therefore, it is necessary to define the boundary between supervisory organs and judicial organs.

Finally, the supervision over judges and prosecutors should be limited to whether individuals abide by the law, whether they are clean in politics, whether they violate professional ethics and other behaviors, and they should not interfere with their independence in exercising their functions and powers. Supervisory organs in supervision over the judges, prosecutors, investigation process, once found violations judges, prosecutors, deems the demotion or dismissal processing, should be in accordance with the law to the administrative authority of the judges, prosecutors disciplinary committee and the corresponding level and the standing committee of National People's Congress recommendation of supervision, and should not directly ZhengJi disposition decision.

#### **5. Conclusion**

The national supervisory power is a new type of power model, which has the characteristics of high status, heavy power and wide scope. At present, academic research on the supervision system of the national supervisory power is still immature. There is controversy and discussion on the connotation, attributes and characteristics of the national supervisory power at the theoretical level; Construction, design and operation are not yet perfect. Therefore, it is necessary and urgent to study the external supervision system of national supervision power from the theoretical and practical levels.

This paper presents a new thinking direction for the basic theory of national supervision right,

and clarifications of the basic theory of national supervision right, which is the primary meaning of how to supervise the national supervision right. This paper shows the idea that the supervisory power is different from the legislative power, the executive power and the judicial power. For the external supervision of national supervisory right, it also needs to consider the theory of power supervision, the theory of comprehensive rule of law and the thought of people's principal position.

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### **References**

- [1] Jeffrey Becker. Tackling Corruption at its Source: The National Corruption Prevention Bureau [J]. *Journal of Chinese Political Science*, 2008, 13(3): 287~303.
- [2] CHRISTIAN M KUTA. Universities, Corporations, and States Use Them—Now It's Time to Protect Them: An Analysis of the Public and Private Sector Ombudsman and the Continued Need For A Privileged Relationship [J]. *Southern Illinois University Law Journal*, 2003(27):390.
- [3] Chan L. Anti-Corruption Commissions in China: Panacea or Cure-all Medicine to Fight Corruption [J]. *Dissertations&Theses-Gradworks*, 2014(3):221~242.
- [4] Jinting Deng. The National Supervision Commission: A New Anti-corruption Model in China [J]. *International Journal of Law, Crime and Justice*, 2017.
- [5] Qin Qianhong. The logic and method of reforming the supervision system [J]. *Universal Legal Review*, 2017(2):17~27.