



The collected Works of the Seventh
Asia Ombudsman Association Conference

OMBUDSMAN AND PROMOTION OF GOOD GOVERNANCE

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AOA

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Mr. Wu Dingfu, member of the standing committee and the secretary-general of the central commission for Discipline inspection of CPC, at the conference



Mr. Chen Changzhi, vice Minister of supervision, at the conference



Mr. He Yong , chairman of the organizing committee of 7th AOA conference and Minister of supervision , presiding over the opening ceremony



Mr. Li Zhilun, vice chairman of the organizing committee of the 7th AOA Conference and vice minister of supervision, presiding over the welcome Banquet



Mr. Wei Jianxing, secretary of the central commission for Discipline inspection of CPC, meeting heads of delegations



Mr. Wang Zhongyu, State Councilor and the Secretary General of the State Council attending the opening ceremony



Mr Hu Jintao, vice president of P.R.China, delivering welcome address at the opening ceremony



Vice president Hu Jintao meeting Heads of delegations



Mr. Gan Yisheng, vice Minister of supervision, at the conference



Mr. Huang Shuxian, vice chairman and the Secretary-General of Organizing Committee and Vice Minister of supervision, presiding over the closing ceremony



Mr. Li Yufu, deputy Secretary-General of the organizing committee, meeting delegates



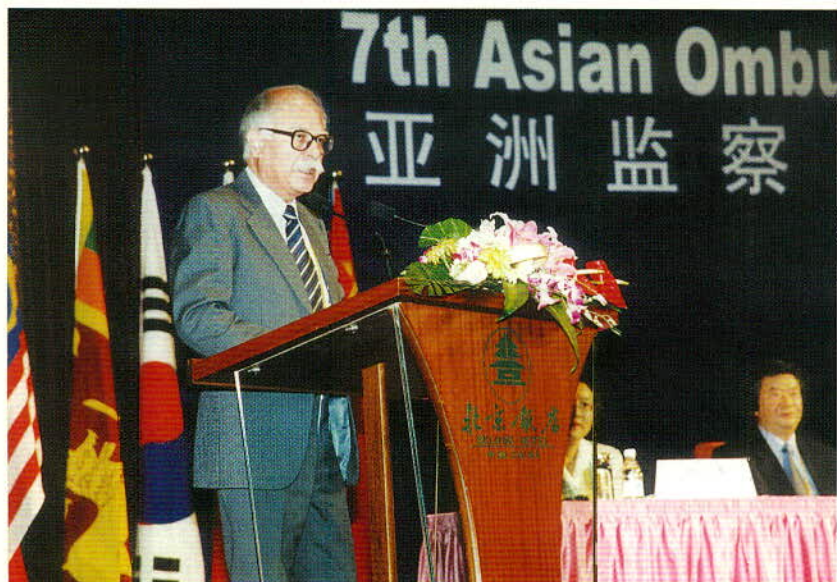
Mr. Peng Wenyao, deputy Secretary-General of the organizing committee and Director-general of the Foreign Affairs Dept of the Ministry of Supervision, at the conference



Ms. Lin Wenyi, vice Mayor of Beijing, delivering welcome address



Sir. Brian Elwood, IOI president, delivering a speech



Mr. Imtiaz Ahmad Sahibzada, AOA president, delivering a speech



Mr. Liang Wenzhong, Director of supervision Bureau of Tianjin Municipality of China, delivering a speech



Mr. Lu JunXiang, Director of supervision Bureau of Hebei province of China, delivering a speech



Ms. Xie xiulan, Director of supervision Bureau of Jiangsu Province of China, delivering a speech



Mr. Yuan Jingui, Director of supervision Bureau of Fujian Province of China, delivering a speech



Mr. Chen Youde, Director of supervision Bureau of Shanxi Province of China, delivering a speech



Ms. Alice Tai, ombudsman of the ombudsman-office of HongKong-S.A.R(china), delivering a speech



Mr. Zhang Yu, commissioner-commission Against Corruption of Macau-S.A.R(china), delivering a speech



The Rostrum of the Conference



The Conference Hall



One part of the Conference Hall



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Speeches and Address

Speech at the Opening Ceremony of the 7th AOA Conference

By Hu Jintao *

(May 22, 2002)

**Distinguished Guests,
Ladies and Gentlemen,
Comrades and Friends:**

At a time when flowers are in full blossom and all things take on a new aspect, the 7th Conference of the Asian Ombudsman Association (AOA) opens here in Beijing. On behalf of the Chinese Government and the Chinese people, I extend my heartfelt congratulations to the opening of the conference and my warm welcome to all delegates and guests coming for the meeting.

The theme of the conference has been set as “Ombudsman and Promotion of Good Governance,” which I think is of great importance. Governments of all countries and regions are faced with the common task of developing economy and improving people’s living standard. An effective supervision over administrative bodies and their functionaries with the aim of building a clean, industrious and highly efficient government is a natural choice of people of all countries in the course of social progress and economic growth. So I think that to build a clean and industrious govern-

* Vice - President of the People’s Republic of China.

ment is now a common topic all countries and regions care about.

While committed to reform, opening and economic development, the Chinese Government has always taken anti - corruption and building a clean and honest government as a strategic task, a priority issue to be addressed. Comrade Deng Xiaoping pointed out clearly at the beginning of reform and opening that we should "concentrate our work on two aspects, one on reform and opening to the outside world, and the other on striking hard against all kinds of economic crimes." He reiterated that we must fight against corruption and promote clean politics. President Jiang Zemin stressed, "To fight against corruption and to promote clean and honest administration is an important guarantee for a smooth carrying out of reforms, opening to the outside world and modernization drive. The more we do in reform and opening, the more efforts we should make to strengthen the fight against corruption and the building of a clean and honest government." Over the past years, China has realized a fast economic growth and maintained social, political stability, and that cannot be achieved without our great efforts on strengthening the fight against corruption and the building of a clean and honest government.

In accordance with China's specific conditions at current stage and the requirements to develop a socialist market economy, we have taken a series of resolute actions to fight against corruption and to build a clean and honest government. We insisted that to promote the building of a clean and honest government must be connected with stability and development. We have, in a clear - cut manner, firmly carried on the fight against corruption. We have focused our attention on three tasks, namely, asking leading cadres to discipline themselves, investigating into discipline - breaching or unlawful cases, and correcting malpractices in all departments and professions. We have observed the principle of carrying out administrative duty according to law, and punished severely those who vi-

olated rules and law. We have insisted on the principle of “treating a disease by looking into both its root cause and symptoms,” and taken comprehensive measures with the aim of establishing two firm lines of defense, one of moral, and one of discipline and law. We have upheld that the development of democracy must be connected with the amelioration of law, and the surveillance by the broad masses be connected with the surveillance by law. We have strengthened anti - corruption legislation, conducted law education as well as inspection on law - enforcement with the aim that the building of a clean and honest government can be done on the track of law. In addition, we have reformed our administrative structure and relevant systems, trying to establish a control system to ensure that power can only be used according to law, a management system that will make duty performance complete, and a leading system and working mechanism that will help the fight against corruption and the building of a clean and honest government. In other words, we are trying to prevent and fight corruption at the root. Following years of efforts, we have achieved evident results in our campaign of fighting against corruption and building a clean and honest government. The campaign is now going deeper. We have effectively guaranteed the economic development and social stability of our country.

Currently, China has entered into a new development stage of building an overall comfortably - off society and accelerating its modernization drive. We will, while continuing with our reform, opening to the outside world and modernization drive, unswervingly push forward the work of anti - corruption and the building of a clean and honest government. We are fully aware of the lengthiness, difficulty and complexity of the fight against corruption and the building of a clean and honest government. We will, through strengthening supervision, ensure that all political orders be carried out smoothly, administrative rules obeyed, administrative manage-

ment ameliorated, and administrative efficiency improved. We will try our best to build clean, industrious, pragmatic and efficient government institutions to guarantee that the objectives of our reform, opening and modernization drive will be reached smoothly.

Ladies and gentlemen, comrades and friends:

The ship of history has sailed into the 21st century. In this new century, peace and development are still the two main themes of the world. It is a tendency of the time and an inevitable historical trend that the world needs peace, people need cooperation, all countries need development and all societies need progress. In the face of the new situation in the new century, to build a clean, honest and industrious government will produce multiple benefits. It will enable us to better seize valuable opportunities and more effectively meet challenges. It will help the revival and development of economy, and the realization of social stability and progress. We are glad to see that governments in all Asian countries and regions have started from their own specific national conditions and constantly endeavored to build cleaner and more industrious government institutions, and have since gained valuable experiences. The AOA, since it was established, has also developed steadily, increased its influence and helped push forward the supervisory work in all countries and regions as it is supported by relevant countries and regions and their supervisory bodies. We believe that the exchange of experiences and the discussion on ways to build a clean and industrious government at the current conference will exert an active influence on the development of all Asian countries and regions. We also believe that the exchange and discussion will help enhance the friendship and cooperation among all countries and regions as well as their peoples.

I here sincerely wish the conference a success.

Thank you for your attention.

Speech at the Meeting with Heads of Delegations

By Wei Jianxing*

(May 23, 2002)

I am very glad to have this opportunity to meet with heads of delegations from all AOA member countries and regions who are here attending the 7th AOA Conference. I'd like to express my heartfelt congratulations for the opening of the conference and warm welcome to all distinguished guests and friends for the conference.

Under the support of member governments and supervision departments of all member countries and regions, the AOA, since its establishment, has been working so hard that it has effectively assisted the supervisory work of all members. It has contributed to the economic growth and social stability of Asian countries and regions.

The specialized organ for supervision of the Chinese Government is the supervisory department at different levels. They oversee the administrative actions of government departments and the civil servants. They perform their duty through legal supervision in two aspects, the supervision in building clean government and in building effective government. Considering the need of building a clean government and the struggle of combating

* Member of the Standing Committee of the Political Bureau of the Central Committee of the Communist party of China (CPC), Member of the Secretariat of the CPC Central Committee, and Secretary of the CPC Central Commission for Discipline Inspection.

corruption, we have put the supervision of clean government as the central task, and the in mean time promoted the effectiveness of government. We have tried to find out and address problems in building clean government in the course of promoting effectiveness of government. In this way we have worked effectively in our building of clean government and struggle against corruption. Years of practice have proved that this approach worked, and has had good results.

After years of reform and opening to the outside world. We are enjoying political stability, fast economic growth, unity among different ethnic minority groups and social progress. China's socialist modernization drive has had great achievement. Government staff and civil servants at different levels have kept in mind the objective of serving the people wholeheartedly, and have carried out their duty faithfully. In general, they have maintained a clean and industrious government. But of course there have been some corruptive cases among governments and civil servants due to varied reasons. The CPC and the Chinese Government have always paid great attention to this issue. While committed to socialist modernization drive and the improvement of people's living standard, the Party and the Government have steadfastly taken the construction of Party Style and clean government as well as the struggle of combating corruption as an issue of life and death. The Party and the Government have taken a series of effective measures to that end. As the struggle of combating corruption went deeper, the Party and the Government have made more efforts in our mechanism and system to solve corruption from the root. After years of efforts, we have constantly had new success in our Party style construction, building clean government and in the struggle of combating corruption. Those successes have vigorously promoted and guaranteed China's reform, opening to the outside world, fast economic growth and social stability.

The Chinese Government also pays great attention to the cooperation

with the AOA. The current conference in Beijing offered us a good opportunity to strengthen exchange and cooperation. China's supervisory bodies must learn from their counterparts in other countries and regions, and take their good and effective experiences as a mirror. We hope that the AOA would, according to its chartered principles, play a more active role to promote economic development and social stability of all Asian countries and regions, and to strengthen the unity and cooperation among the peoples.

I sincerely wish the conference a complete success.

Welcoming Address for the 7th AOA Conference

By He Yong*

Ladies and Gentlemen, Comrades and Friends:

Good evening!

Tonight, with the flowers in full blossom and the bright moon shining above, I am very delighted that all participants of the 7th AOA conference can gather together here. First of all, I would like, on behalf of the Ministry of Supervision of the P. R. C., and in the name of myself, to express my warm welcome to all distinguished guests here.

China is an ancient country boasting of long history and rich cultural heritage. The Chinese people, over the past 5,000 years, have created splendid Chinese civilization. After the establishment of New China, in particular after years of reform and opening to the outside world, China has witnessed unprecedented changes. The Chinese people, under the leadership of the Communist Party of China and the Central Government, have worked very hard to build their motherland into a rich, democratic and civilized modern country. Over the past several years, China has observed a pro-active fiscal policy and stable monetary policy. As a result, China's national economy has kept a good momentum of sustainable, rapid and healthy growth. The GDP for 2001 reached 9,593.3 billion yuan, up 7.3 percent from a year ago. China's foreign trade volume for 2001 topped 500

* Minister of Supervision of the People's Republic of China.

billion US dollars, among which exports rose 6.8 percent to 266.2 billion US dollars. China's foreign exchange reserves reached 212.2 billion US dollars. The per capita disposable income of urban residents grew 8.5 percent, and the per capita net income of farmers climbed 4.2 percent. After more than half a century of efforts, China has gradually strengthened its comprehensive national power. Its social productive forces and the living standard of people have both improved remarkably. China's achievements in both material and spiritual civilization have caused worldwied attention. China has realized its first and second phase strategic goals of modernization. As a result, the Chinese people are now generally living a well - off life. They are, highly enlightened by their achievements, marching toward a higher goal of modernization.

China is known for its hospitality. The Chinese people are industrious, kind - hearted, enthusiastic and hospitable. As an ancient Chinese saying goes, "A bosom friend afar brings distant land near." We sincerely hope that all Asian countries and regions can develop the friendly and cooperative relations in the field of supervision and ombudsman. The current meeting in Beijing has provided us with a good opportunity in increasing exchange, cooperation and friendship. As host country, we will try our best to serve you all, to ensure the conference a success, and to ensure that you all have a good memory of Beijing.

Finally, let me propose a toast,
For the health of all,
For the development of Asian supervision cause,
For unity and friendship,
Cheers.

Message

We are very honored to host the 7th Asian Ombudsman Association

Conference from May 22 – 24, 2002 in Beijing. On behalf of the conference organizing committee and the Ministry of Supervision of the People's Republic of China, as well as in my own name, I would like to extend our sincere congratulations and warm welcome to all the participants of the conference.

This conference at which participants are expected to focus their discussion on the main theme "Ombudsman and Promotion of Good Governance" is of great significance. To build a clean and efficient government is a common challenge facing every country in the world. The international community and governments of countries/regions have made great efforts to this end. While committed to the reform and modernization drive, the Chinese government has been resolute in the fight against corruption and made every effort to build a government that is clean, diligent, pragmatic and efficient. The Ministry of Supervision and supervisory departments at various local levels have played an important role in the promotion of good governance by conscientiously performing their duties empowered by the constitution and laws and intensifying their supervision over administrative organizations and the civil servants. With concerted efforts of the Chinese government and the whole nation, the past few years have witnessed smooth and healthy progress in the promotion of good governance and anti-corruption campaign with marked achievements that have advanced social stability and economic development.

Ever since its establishment, the AOA has actively undertaken activities in the field of administrative supervision and strengthened academic exchanges and cooperation among Asian countries/regions. This has greatly promoted the supervisory and control work in those countries/regions. We are confident that the present conference in Beijing, at which we are gathering together, exchanging information and ideas and learning from

each other, will undoubtedly further enhance the development of AOA and contribute to the building of a government of integrity and diligence in its member countries/regions.

I wish the conference a great success.

Address at the Opening Ceremony of the 7th AOA Conference

By Imtiaz Ahmad Sahibzada *

The Seventh Asian Ombudsman Conference in Beijing, Peoples Republic of China, involving meetings of the Board of Directors and of the General Assembly of the Association, has a number of procedural and substantive issues relating to its charter to resolve. This I am sure will be done, as always, in a spirit of mutual respect, tolerance and understanding.

It is universally acknowledged that “governance” issues lie at the heart of the problems confronting the countries of our region. In their resolution lies the key to political and socio – economic development and the establishment of a just and equitable society based on the rule of law. The organizer and hosts of this conference, the Peoples Republic of China, is, therefore, to be complimented on choosing the main theme of the Conference as “Ombudsman and Promotion of Good Governance”, with its three subsidiary themes relating to (i) Ombudsman and the Integrity of Government; (ii) The Role of Ombudsman in Improving Public Administration; (iii) Ombudsman and Civilian Oversight.

The role of the institution of the Ombudsman in the promotion of “good governance” is well – known. By curbing mal – administration and corruption from the discharge of functions and responsibilities by public

* AOA President, Pakistan Ombudsman.

sector organizations in a cost - effective and expeditious manner through comparatively simple and uncomplicated procedures, it has established itself as perhaps the most important institution for the redress of individual grievances arising from the interface of the Government and the citizens.

I am confident that both the formal deliberations of the Conference and the "Country Papers" of the many delegates, and, just as importantly, the informal inter - action and exchange of views between them, will lead to a better mutual understanding of the problems confronting our countries in this regard and the measures being adopted to cope with them. Administrative organizations are the product of history and the specific politico - and socio - economic circumstances of each country. While the successful models cannot be replicated elsewhere in their entirety, because of historical, socio - economic, political and cultural differences, some of the principles on which they are based and the procedures in use for discharge of responsibilities, can certainly be adopted to structure our respective institutions on more efficient and effective lines for the promotion of good governance. It is this productive inter - action and fruitful exchange of views between delegates that we particularly look forward to in the Conference.

I wish the Conference every success and, as President, extend the collective gratitude of the Members of the Asian Ombudsman Association to the Peoples Republic of China for hosting it.

Address at the Opening Ceremony of the 7th AOA Conference

By Brian Elwood *

“THE OMBUDSMAN AND THE PROMOTION OF GOOD GOVERNANCE”

I warmly welcome the invitation of His Excellency the Minister of Supervision of the People's Republic of China, Mr He Young to attend this Conference in my capacity as President of the International Ombudsman Institute. Not all Asian Ombudsmen are members of the Institute, but since the Asian Ombudsman Association was founded six years ago in Pakistan, under the guidance of my good friend and former colleague, Justice Shakural Salaam, I have encouraged a close professional relationship between the Association and the Institute.

I applaud the Association's efforts to establish collegial links between its members. Long may it continue to serve the needs of its members in furthering their professional development.

Although not during my time in office will all Asian Ombudsmen gain membership of the Institute, it remains my hope, indeed my wish, that one day all countries in Asia will have embraced the Ombudsman concept and their Ombudsmen be admitted to membership of the Institute. The Association may then well become the regional constituency of the In-

* President of the International Ombudsman Institute, Chief Ombudsman of New Zealand.

stitute.

That said, there has developed between the Ombudsmen of Asia and the Ombudsmen of the world a close association both in terms of professional assistance and personal friendship, which will endure.

What is required for the future, and underpinning the theme of this Conference, is the establishment and strengthening of the Ombudsman institution in each and every country in Asia as an important component of the efforts now being made to promote and encourage good governance practices. Incompetent administration and corrupt practices so clearly undermine the ability of governments to govern, let alone survive, that everyone has an interest in the adoption of good governance practices and the elimination of corruption. The world's Ombudsmen are ready and willing to assist in achieving this objective in Asia.

I commence my address with two fundamental propositions:

- The Ombudsman concept is less about controlling the government's bureaucracy and more about encouraging the development and continued promotion of good governance practices.
- The Ombudsman institution can assist both the governor and the governed feel more confident that the machinery of government is functioning in accord with good governance practices which are lawful, expeditious and fair.

In short, I put it to you that both the government and the individual person are the beneficiaries when a credible Ombudsman institution is in operation. The government knows that its bureaucracy can be subject to the independent scrutiny of the Ombudsman at short notice, in relation to any conduct considered to be wrong. The individual person knows that when aggrieved by the administrative conduct of the Government's bureaucracy, there is an avenue of last resort to have that conduct independently reviewed and if justified, to have recommended a course of action to rea-

sonably remedy the grievance.

It is in the nature of the Ombudsman process, investigatory rather than adversarial, not to determine a winner and a loser. An Ombudsman ascertains why something has gone wrong by which an individual is aggrieved and seeks a remedy to right that wrong. It is not that the government should be embarrassed by the righting of a wrong, but that the government should be seen to be willing to rectify an administrative wrong when one is discovered. It is in the nature of the human condition that people whether in authority or subject to authority, sometimes get things wrong. Often it is because of a lack of knowledge of all the relevant facts or a misunderstanding resulting from inadequate or incomplete communication. I am optimistic enough to believe it is not in the general scheme of things that a person in authority deliberately sets out to do wrong to another human being. But wrongs sometimes do occur. It is the putting right that is important.

It is appropriate that I record here in Beijing that it was in China nearly 4,000 years ago, that the modern concept of the Ombudsman can be seen to have its beginning. Ancient Chinese Emperor's appointed officials to keep a watchful eye on the conduct of the Emperor's bureaucrats. As there was a need then, so too there is a need now for such a watchful eye. Human nature has not fundamentally changed over all those years. The Ombudsman institution has become that watchful eye: its origins are founded in the organisation of Chinese society thousands of years ago; and it remains as relevant today, if not more so. It is a fact that the role of governments in the lives of individual human beings is greater today than ever and with it has grown the size and cost of governments' bureaucratic support systems. No government need fear the independent scrutiny available through the classical Ombudsman process, for when the government gets it right, an Ombudsman can say so and endorse what has been done as fair,

reasonable and in accord with the law. But when the governments bureaucracy gets it wrong, and they sometimes do so, the Ombudsman process can identify both the problem and a solution.

The development of Ombudsmanship from the global perspective

The establishment of Ombudsman offices continues to proliferate in numbers as well as in diversity of structure and jurisdiction. There are now Ombudsmen in 111 countries with membership of the IOI. This proliferation and diversity has followed closely the reforms to the governance processes and the functional roles of government since the mid 1980s. How governments operate and the responsibilities they assume have changed dramatically nearly everywhere and at a remarkable pace. The basic rationale for this is not difficult to identify: the expectations as to what governments could achieve had become too high and were unsustainable; technology has broken down the isolation of nation states and the nature of the relationship between the individual and the machinery of government changed forever by placing increased emphasis on individual rights and administrative fairness.

In short, there has been increased awareness of the universality of the basic difficulties faced by governments and the solutions needed to address them. An effective Ombudsman mechanism to address corruption, human rights and maladministration fitted the circumstances thereby created. The worldwide growth of the Ombudsman institution was a natural consequence of the quite historic changes to the governance arrangements in many countries. Those changes enabled governments to put in place at relatively low cost a process which would help ameliorate or lessen the adverse consequences to individual people flowing from rapid change to government structures and bureaucratic procedures.

Outlook for the development trend of Ombudsmanship

As pleasing as the growth in the number of countries with Ombudsman institutions clearly is, I must confess to a feeling of some unease about the futures which a growing number of Ombudsman offices now face. I identify two main areas of concern:

- a too high expectation of what the Ombudsman process can achieve – the process is not a cure – all for every problem a government may face or all grievances of a dissatisfied individual.
- an under – resourcing of Ombudsman offices to the point where they become not a means to help resolve a problem, but part of the problem itself.

An inability to address grievances competently and with reasonable promptness will lessen the effectiveness of the Ombudsman process. Adopting the process should require a commitment to adequate resourcing and a willingness to implement the recommendations which result from the independent review of a grievance.

But there is a secondary level of concern which I should express. An Ombudsman institution should remain acutely aware of the limitations of the office – it is after all a powerless office in the sense it cannot direct or coerce. But the office does have an enormous opportunity to influence most powerfully by persuasion the outcome for individuals who have been wronged during their interface with government. What is required is that an Ombudsman be given independence and so conduct him/herself impartially when acting in a review capacity. Above all else, an Ombudsman with a review function should avoid the temptation towards advocacy for particular causes except the outcome following from a specific investigation. A tendency towards general advocacy by a reviewer can quickly destroy the perception of impartiality of the reviewer to the detriment of the

review process and the reviewer. A clear separation between review and advocacy functions is essential for the Ombudsman institution to retain the specific and international credibility it has earned.

I remain more than ever convinced of the importance of the Ombudsman institution, and the processes and procedures which support that institution, in helping achieve the objectives of good governance everywhere. The institution of Ombudsman has received universal recognition of recent years – it remains to guard yesterday's achievements of Ombudsmen around the world and build upon them for the future benefit of well – governed societies.

Welcoming Address for the 7th AOA Conference

By Liu Qi*

It is our great pleasure to have the Seventh Conference of the Asian Ombudsman Association to be held in Beijing. On behalf of Beijing Municipal Government, its 13 million people, and in my own name, I would like to extend our heartfelt congratulations for the convening of the meeting and our warm welcome to all participants.

Beijing is the capital of the People's Republic of China and her political, economic and cultural center. With a brilliant history of 3,000 years, a number of historic sites here have been listed as World Cultural Heritages by UNESCO, of which are the Forbidden City, the Great Wall, the Summer Palace and the Temple of Heaven.

Since the founding of the People's Republic of China, old Beijing has taken on a new glamour. Especially since the policy of reform and opening - up was adopted, under the correct leadership of the central government, Beijing has focused its efforts on economic construction, fully pushed forward the drive of reform, opening - up and modernization, and made great achievements in social stability, economic development and prosperity of the people.

In 2001, Beijing successfully won the honor to host the 29th Olympic Games in 2008. Guided by the idea of "Green Olympics, Hi - tech Olympics and People's Olympics", Beijing is speeding up its moderniza-

* Mayor of Beijing of the People's Republic of China.

tion endeavor. In the near future, Beijing will show the world a brand new look.

The Chinese people are endowed with the tradition of hospitalities. As the old Chinese saying goes, "isn't it delightful if friends come from a-far?" Beijing and its warm - hearted people are always ready to provide considerate and quality services for you. I believe Beijing will leave you a favorable impression.

I wish the conference a complete success and your stay in Beijing a pleasant one.

Speech at the Closing Ceremony of the 7th AOA Conference

By He Yong*

(May 24, 2002)

**Honorable Chairman,
Distinguished Guests,
Ladies and Gentlemen, Comrades and Friends:**

The three – day 7th AOA Conference has completed its entire planned agenda and is about to wrap up very soon. On behalf of the Organizing Committee and the Ministry of Supervision, I would like to congratulate on the success of the conference. I would also like to express my heartfelt thanks to all delegates and friends for your support and cooperation.

The Chinese Government pays great attention to the conference. Hu Jintao, member of the Standing Committee of the Political Bureau of the Central Committee of the Communist Party of China (CPC) and vice – president of China, attended the opening ceremony and made a speech. Another member of the Standing Committee of the Political Bureau of the CPC Central Committee, Wei Jianxing, who is also member of the Secretariat of the CPC Central Committee and Secretary of the CPC Central Commission for Discipline Inspection, met all participants of the meeting. Chinese State Councilor and Secretary General of the State Council Wang

* Minister of supervision of the People's Republic of China.

Zhongyu attended the opening ceremony of the conference. Chinese leaders gave high assessment over the job of AOA. They have also expounded on China's efforts of building clean government, China's principle stance and policy on combating corruption, and China's sincere hope of conducting active exchange and cooperation with the world. During the meeting, China's supervisory institutions had wide - ranging contacts with their counterparts from overseas, and had enhanced mutual understanding. They have thus learned much valuable experience.

Participants at the meeting delivered speeches around the theme of "exercising effective supervision to promote clean and industrious government" and its four sub - titles. They have exchanged experiences and ideas, and made deep discussions into ways and approaches of how to exercise more effective supervision over government institutions and the civil servants. They have reached consensus on a number of major issues like the role and function of supervision in building a clean and industrious government, more effective supervision by citizens, improvement of public administration and enhancing international exchange and cooperation. I am convinced that the current meeting will play an active role in strengthening the supervisory work of Asian countries and regions as well as the friendly relations among us.

Participants at the meeting have decided that the next AOA conference will be convened in the Republic of Korea. They have also decided a number of major issues concerning the future development of the AOA. The conference is therefore of great significance to the AOA itself. We hope that the AOA will, according to its charter and objectives, work more vigorously so that all works of the AOA will have new development. Here, I would like to propose the following principles:

The first is diversification. The choice each member made according to its specific conditions should be respected. We should try to explore

more effective ways of cooperation while reserving the differences in our systems, culture and history. We should support each member to work independently.

The second is effectiveness. We should start from the specific national conditions of each member, and integrate the need of AOA with the specific conditions of each member. The pertinence of our research and exchange should be stressed so that the results of research can better guide our daily work.

The third is standardization. We should gradually establish regulations on management of the AOA and its activities. We should also amend the regulations timely when situation changes. Those regulations will help the AOA develop in a sustainable, stable and orderly way.

Ladies and Gentlemen,

It is an important task of all members to establish a clean and effective government for the sake of social stability and economic prosperity. The supervisory bodies have unshirkable duty for this task. China's supervisory institutions are ready to work with all counterparts of AOA members for the fulfillment of that task and for the peace and development of Asia.

Wish you all a happy journey.

Thanks.

Papers

The Role of the Inspection in Improving Public Administration

By Khun Haing *

**Excellencies,
Ladies and Gentlemen,**

On behalf of the Royal Government of Cambodia and Samdach Prime Minister Hun Sen, please allow me to express the profound satisfaction of the Cambodian delegation to attend this 7th conference of the Asian Ombudsman Association

We ask for the prestigious People's Republic of China to accept our most profound gratitude for the perfect organization of this event and its warm, friendly and generous hospitality.

I would like to address, on behalf of the Royal Cambodian delegation, to H. E. Mr. He Yong, Minister of the Ministry of Supervision of the Government of the People's Republic of China, our congratulation for the excellent arrangement of this successful conference.

I would like to express my sincere appreciation to the initiator of the 7th AOA.

Excellencies, ladies and gentlemen,

The opening of the 7th Conference of the Asian Association for In-

* Minister of the Ministry of Parliamentary Relations and Inspection of the Royal Government of Cambodia.

spectors illustrates the importance of our mission .

The role of inspectors or the role of Ombudsman in the mission of improving public administration is often seen as negative .

As the minister of Parliamentary Relation, I am also in charge of inspection. The role of my ministry covers large scope of areas. All public services, public administration, police, and military are all under my duties. Private sector and information also contribute a great cooperation to our work .

I often recommend to my staff members, who are assigned to conduct the investigation in every public institution, not to forget that our primary duty is to help administer our country and improve the management of national resources. We provide solutions to reduce the costs of the government aid programs, to improve the quality of the administrative procedures and social justice, to establish a mechanism to ensure transparency. We also assist to have a better competitiveness within the state market, preserve and develop natural resources, diminish bureaucracy, and help develop areas within our mission. This aspect of our work is crucial and could be positively judged. We also have necessary administrative instruments in our law to penalize those who abuse their power, official role, and those who illegally use their influence to make profits. I may say that those people don't like us very much!

Excellencies, ladies and gentlemen,

Since 1993, the year of new start, Cambodia has made remarkable progresses in various fields. Our governmental institutions, executive, legislative and judiciary bodies have been re - enforced. All social - economic sectors are in progress. The State of law has been constantly up graded. The national unity has been exercised within social peace and political stability. However progress has no end. The Royal government of Cambodia

has continued its efforts toward a sustainable development. The achievements we have obtained must be preserved and strengthened.

Our ministry, which is in charge of inspection, has actively participated in the progress of Cambodia. It has been a strong political will and permanent support of the head of the government, Samdach Hun Sen. It is obvious that we cannot fulfill this vital mission without such a political will and support. The investigation into the severe irregularities of mismanagement of the public institutions and commercial fraud operation, our ministry, which is in charge of inspection, shall function as follow:

Firstly, protect and preserve the state properties and resources, which can be affected to the development of the country, for instance, school buildings, irrigation networks, health centers, agricultural, industrial or commercial projects as well as the resources that affect social justice.

Secondly, We have to protect our citizens from abuse of power which consequently impacts the people's fundamental rights, namely the rights of development and their living condition. I have noticed that with malpractices and mismanagement of the state properties, we can lose human lives. Human lives could be lost due to the lack of financial resources needed to construct health centers and hospitals. I may also say that a strong and accountable management of the state properties and supplementary finance could be an efficient measure in saving the people victimized by natural disasters.

Excellencise, ladies and gentlemen,

Allow me to continue to talk more about my country, Cambodia, and our persistent efforts in bringing about the people's prosperity through a permanent research into a better public administration.

As I have mentioned earlier that the primary role that we hope to play in our mission is to help administrating and operating the country

better. To approach this objective, we have to look into some measures in which I wish to illustrate six areas concerned. Notably I will say:

1. Any major administrative decision must be made well known to the people. For example, the lack of accession of public information on the changing of custom tariff, rules and regulation practice will become an easy abuse by the customs agents.

2. Associate the private sectors and civil societies into the formulation of a legal framework. Through this participation we could increase the quality of our acts and the responsibilities of our administrators.

3. Transparency is a significant factor in improving a better public administration.

4. Re - enforce the power and the means of judiciary branch.

5. Severely penalize those who abuse power. The penalty is to discourage those who attempt to commit any wrongdoing.

6. Permanent education is a key tool in developing human resource that will practice a transparent, effective and efficient system.

- Finally, the following measures could be a contribution to several establishments of a mechanism that will boost up the state management and a better defense of the people's rights.

- Create a forum for all actors who are willing to combat corruption.
- Put in place the evaluation systems of the progress of the administrative governance, the bidding of public properties and services supplied to the administration.
- Obtain concrete agreements from private and public sectors to respect a "Code of Conduct" in their activities and intra - relations.
- Establish a regular evaluation system for the protection and the development of natural resources.
- To create a clean and non - corrupt office to receive the people's complaints.

Excellencies, ladies and gentlemen,

As the world has changed, new concepts have also arisen. The most visible between us is the "globalization". The definition of the globalization is still vague, probably of one's own free will. We have noticed that it is a concept coming from the West. We, Asian people, have our own visions on the evolution of the world. Every one must accept that our governments know their responsibilities and bound to the effective will for a constant prosperity of our people. Our civilizations and cultures have dated back to ancient time and they cannot always satisfy the idea of those who are away from us.

What I defend here is the capacity of the Asian leaders who are trying to improve, on their own efforts, the quality of the people's lives in all aspects.

✓ The vigor of markets, the economic and financial growths have never attained the dimension as of today. The management and the competitiveness have forced us to adapt to this new challenge.

New technology of information and communication will unavoidably affect our future soon. The migratory movement into and out of our territories has caused us a great concern. The differences between the levels of development within our provinces have become an incidence on the national unity. Economic and industrial pressures, financial and all kinds of new constraints on Asian region modify our national behaviours. The emergence of new social phenomena in the world, notably religious, has reflected a necessary and prompt action. The consequences mentioned above have urged our governments to make an effort for the adaptation. In the framework of these evolutions, we must invent our own solutions.

The organs of Inspection will bring help and improvement. Through the knowledge of functioning of our Administrations, good or bad, with ca-

capacity or not in the adaptation of new situations and new techniques of the state management, through a great comprehension of our daily realities, and through a close relation between all public sectors, the state control institutions could suggest new solutions and ask for help to ensure the progress in a number of areas ✓

Excellencies, ladies and gentlemen,

I am convinced that the exchange of views and experiences during this conference will help to promote progresses in our inspection works for the benefit of our people.

Once again, I would like to express my profound thanks to our Great Chinese Friends. They have generously shared with us their experiences. We have also learned with great attention of their ideas and their achievements in the modernization of the Administration of the Great China, the largest Administration in the world.

Thank you very much for your attention.

Ombudsman and Integrity of Government

By SRI P. C. Sharma *

The concept of welfare state witnessed growth of administrative machinery with vast discretionary powers, playing a decisive role in socio-economic order. Such wide powers also provided the possibilities and opportunities of abuse or misuse of power resulting in mal-administration and corruption. A need was felt to evolve adequate and effective mechanism to control proper exercise of administrative powers, safeguard individual rights and create administrative procedure for redressal of individual grievances against the administration. Some countries found answer in the institution of ombudsman.

In common law countries the courts have traditionally exercised control over administrative action through writ jurisdiction. But it only plays a peripheral role and does not provide review of the entire administrative system. Secondly, the court has limitations in comprehending merits of an administrative decision in its integrity. Certain administrative action falls outside the purview of judicial review. The procedure of the court also leaves a lot of scope for administrative machinery to protect themselves, as the burden of proof lies on the person who approaches the court to prove the allegations. In a parliamentary form of democracy, the legislature exercises control over the administrative action through discussions by raising questions during zero hours, instituting Parliamentary Committees to in-

* Director of Central Bureau for Investigation of India.

quire into administrative lapses and corruption and also directing the government to refer the matter to investigating agencies for carrying out investigation. The menace of corruption at the cutting edge level does not get the due attention. The legislature faces the problem of paucity of time to go into the finer aspects of administrative working.]

Against this backdrop, the concept of ombudsman was conceived in the Scandinavian countries and the common law countries like New Zealand, Australia, England and others. It was felt that the institution of ombudsman is in a better position to redress the grievances due to bad administration because it has access to the departmental files and is not bound by the court procedures. The complainant is not required to prove a case. No court fee is paid and no lawyer is required. Administration also cooperates as the process is taking in four corners of the room without any adverse publicity. In a court procedure, the administration has to take an adverse position, same is not the case with the Ombudsman. It works silently and discretely and administration gets a chance of rectifying its mistakes without much loss of face. The relief comes in many forms which always is not available in a court of law. It is quicker, effective and remedial. It contributes to greater efficiency and humanity in the process of administration. The value of the ombudsman is not only curative, but also preventive.

[Globalisation of economy coupled with rapid economic development in certain countries provided vast scope for corruption when the administrative procedures are not transparent. After Independence, the Government of India took a lead role in the socio - economic development. Huge investments were made in industry, health and other governmental activities. This resulted in the growth of a large bureaucracy with plethora of rules and regulations having wide scope for different interpretations giving rise to misuse and abuse of power to the detriment of the citizens. In order to)

meet the challenge of corruption in all walks of life, a number of institutions were created such as Ombudsman (Lok Pal and Lok Ayukta), Central Vigilance Commission, Comptroller and Auditor General of India, State Vigilance Commissions, Central Bureau of Investigation and Ombudsman for the banks etc.

Being a federal polity, the Parliament and the state legislatures enact laws with regard to the administration of criminal justice. But primarily the states are responsible for administration of the Criminal Justice System in their respective areas.

The scheme to establish the institution of ombudsman in India was conceived a few years ago on the recommendations of the Administrative Reforms Commission and accordingly Lok Pal Bill was introduced in the Parliament but is yet to be approved. The Lok Pal (Ombudsman) is proposed to be a three-member body. The Chairman would be selected from among those who have held the post of the Chief Justice of India or that of a judge of the Supreme Court of India. The other two members should have been the judges of Supreme Court or additional judges of High Court. The appointment will be made on the recommendations of the Committee consisting of the Vice-President of India, Prime Minister, Home Minister, Speaker of the Lok Sabha, leader of the Upper House and the leader of opposition of both houses of Parliament. The members will have full independence and can be removed through a special procedure after an inquiry by a judicial committee. The Lok Pal is intended to be a statutory authority to inquire into complaints of corruption and misuse of office against the Prime Minister, Ministers and the Members of Parliament, both present and the past functionaries. Any appeal against the findings of the Lok Pal will be made only to the Supreme Court.

Certain states have also appointed Lok Ayukta to deal with corruption by public servants including Chief Minister, Member of Legislative Assem-

bly, Minister, political appointees in the state bodies etc. The objective of the Lok Ayukta Act is to ensure fairness in administrative action and for this purpose, it provides for investigation by the Lok Ayukta to whom any complaint is made. The proceedings before the Lok Ayukta is similar to the judicial proceedings. A provision has also been kept to punish false complainants. The Lok Ayuktas are by and large headed by a retired judge and the anti - corruption agencies in the States function under their supervision .

There are obvious limitations in the Lok Pal set up. It does not have any power to set right any Ministerial order. The investigation report is to be submitted to the Parliament which will be publicly debated.

In a Parliamentary democracy, the party in majority forms the Government. There had been instances where ministers have enriched themselves through abuse of official powers. The political executives are now covered under the definition of public servant under the Prevention of Corruption Act. There have been several instances where the senior political executives like former Prime Ministers, Ministers, sitting MPS have faced criminal prosecutions on corruption offences and also for possession of assets disproportionate to their known sources of income .

The judiciary has played a very pro - active role in cleansing the public life by monitoring the cases of investigation of corruption against the mighty and the powerful. In two instances, the Supreme Court imposed heavy damages where former ministers were found to have misused the discretionary powers and extended favours to friends and relatives. There is a system of assessing the integrity and performance of every government employee on annual basis. The Annual Confidential Reports has a column on integrity. The people who are found unsuitable in this regard can be compulsorily retired from the service. These provisions are meant to maintain integrity in the Government, but there has been a systematic failure in

ensuring a clean public administration.

The Criminal Justice System in India is administered through independent judiciary members of which are also public servants. The cases of corruption are dealt with by a special judge of the rank of session judge. The judges have power to attach the property acquired out of ill – gotten money under the Criminal Law Amendment Ordinance 1944.

The Central Bureau of Investigation, the premier investigating agency of the Central Government, traces its origin to the Special Police Establishment Act set up in 1941 to investigate cases of bribery and corruption in transactions with the War and Supply Department during World War II. With the passage of time the Central Bureau of Investigation which was primarily an anti – corruption agency has grown in its size and activities.

It is an elite force playing a major role in the preservation of values in public life and in ensuring a healthy national economy. It is also the nodal police agency in India which coordinates investigations on behalf of Member countries of the Interpol. While investigating the anti – corruption cases, CBI has acquired an image of professionalism and integrity, capable of investigating cases against the mighty and highly placed people of the country including Prime Ministers, Ministers, and other senior government functionaries. Its services are being sought by all other investigating agencies within the country. It is held in high esteem by the Supreme Court, the High Courts, the Parliament and the public. Hardly a day passes when a demand is not made to refer important cases to the CBI for investigation. It is also involved in collection of criminal intelligence pertaining to anti – corruption, economic crimes and special crimes. It investigates cases of corruption and fraud committed by the public servants, the economic offences including bank frauds, financial frauds, tax frauds, narcotics, antiques, cultural property and smuggling of other contrabands, special Crime

such as terrorism, kidnapping, murders having national or international ramifications including organized crimes .

The CBI is headed by a Director of the rank of Secretary to the Government of India, assisted by Special Directors, Additional Directors and other senior officers having a strength of approx . 7,000 in all ranks . In addition it is assisted by about 700 law officers, technical officers, scientists etc . who provide advice on technical and legal matters .

Director, CBI now enjoys a fixed tenure of not less than two years and is selected by a Committee from among the senior police officers . It takes up a very large number of important cases for investigation, files cases in the court for trial and has a separate prosecuting agency to represent the cases in the courts . The conviction rate of 67% , much above the national average, in addition of a higher level of professionalism . It has branches all over the country and is able to launch large scale investigations spreading length and breadth of the country .

The Prevention of Corruption Act, 1988 covers offences regarding demand and acceptance of bribe, abuse of official authority for individual benefits, misappropriation by public servants and touting for different services . The act also gives a very wide definition of public servant and includes any person who holds the office by virtue of which he is authorised or required to perform any public duty . Almost all public functionaries come within the ambit of this act as public servants . The abettors of corruption are also punishable with the same quantum of punishment .

Punishment for bribery is extendable up to 5 years but not less than 6 months for bribe takers and bribe givers . Misuse of official position for personal gain can lend a public servant into jail for minimum one year and up to 7 years . The middle man acting as a tout for public servant is punishable for at least 6 months jail extendable up to 5 years .

The power of investigation includes registration of criminal cases of

corruption, carrying out searches, causing arrest, summoning documents, examination of witnesses and filing investigation report in the court for prosecution. Under the Indian law, as per the Criminal Justice system, the power of investigation is an inherent power and does not need any prior sanction. However, in the case of a public servant sanction of Department is required for prosecution. The CBI's scope of investigation extends to all Ministries/Deptts. of Govt. including Armed forces and Police. At times, the higher judiciary has also entrusted individual cases of corruption against the judicial officers to the CBI.

On the similar pattern, the State Govts. had set up Anti Corruption Bureaus for enforcement of anti corruption law. Their nomenclature in organizational set up differ from state to state. These institutions perform duties similar to CBI in anti corruption matters in respective areas.

Comptroller and Auditor General of India is a constitutional authority for auditing Govt. expenditure. It is an independent institution and has enough constitutional safeguards for discharging its functions independently. Its basic functions are:

- 1) To conduct audit of Govt. expending and
- 2) To monitor adherence to the rules and regulations in Govt. expenditure and to draw attention towards wasteful expenditure.

CAG reports on the accounts of the Govt. of India as well as State Govts. and its audit reports are placed before each house of Parliament for discussion. The CAG has drawn attention to various irregularities in the Govt. departments resulting in loss. The Govt. has taken action on these reports. The Public Accounts Committee of the Parliament also goes into various instances of misuse and misappropriation of public funds and recommend appropriate action against those responsible.

The Central Vigilance Commission was set up in 1964 on the basis of a report of a Parliamentary Committee. The commission is headed by the

Central Vigilance Commissioner and two other members. It has been entrusted with the task of superintendence over CBI. The CVC can undertake or cause an inquiry into any instance where a public servant is alleged to have acted in an improper or corrupt manner. The commission also exercises checks and supervision over vigilance and anti corruption work of various Govt. Deptts. and Public Sector Undertakings. It can call for reports from Govt. agencies. It also proposes suitable changes in the existing rules and procedures for maintenance of integrity in the administration. The commission is required to submit its report to the Govt. about its activities and the report is laid before both houses of Parliament. The commission has to report to the Parliament about reasons for the non – acceptance of any recommendations of the commission.

The Vigilance commissioners are appointed on the recommendations of the PM, Home Minister and the leader of the opposition and holds an office for a period of 4 years, enjoy autonomy and independence in its working.

The Reserve Bank of India has introduced the Banking Ombudsman Scheme in 1955 to remedy the complaints/grievances of any member of public against the bank related to deficiency in banking services, loans and advances and other related matters. The Banking Ombudsman receives complaints and facilitates settlement of grievances. Any aggrieved person can file the complaint within one year before the Banking Ombudsman in writing or through his representation. The frivolous or vexatious complaints can be dismissed without hearing. The idea of Ombudsman is to provide an alternative dispute resolution mechanism to the general public for speedy redressal of their grievances to facilitate better customer service. This saves the precious time, energy and resources of the judiciary.

In my departments under the Govt. of India Watch Dog committees consisting of members of the public and senior officers of other depart-

ments have been set up to provide immediate redressal of grievances . It also acts as a Watch Dog against any possible abuse or misuse of official power by the public servants . The Committee also suggests procedures for better governance .

It has been found that transparency in the administration has minimized scope and chances of corruption in the Govt . The enactment of Freedom of Information Act is under active debate . The act will introduce transparency and minimize the scope of corruption . We all are awaiting passing of this Act to have a clean and healthy administration .

The Role of Ombudsman in Improving Public Administration with Special Reference to India and Madhya Pradesh

By Mr. Justice Faizanuddin* and Lokayukt Madhya Pradesh**

Abstract

In the recent years the institution of Ombudsman has secured wide recognition as an effective instrument for redressal of citizens' grievances. In the Indian context, besides grievances, the rampant corruption in public administration in the post – independence period assumes greater significance. Although a high power Administrative Reforms Commission recommended appointment of National Ombudsmen for India in 1967 the parliament has not been able to pass an enactment even after 35 years.

Certain states taking cue from the Administrative Reforms Commission report have established State Ombudsman Institution, through state enactments, which are known as State Lokayuktas. Presently these are functioning only in 14 out of 28 full states. Even these State Ombudsmen find difficulty in playing their role effectively due to infirmities in State acts through which these Institutions have been established. Unfortunate-

* Former Judge Supreme Court of India, Plenary session 2, 23rd May 2002.

** State Ombudsman.

ly, there has been lack of political and administrative will to make these institutions adequately effective.

However, in the State of Madhya Pradesh, it has been possible to make some headway and not only senior bureaucrats but some ministers also have been brought to book. In fact, the need of the hour is that the Ombudsmen, particularly in Indian context, act as crusaders rather than remaining passive onlookers.

1. Honorable President of Asian Ombudsman Association Mr. Justice Bashir Jehangiri, Honorable Mr. Hu Jintao, Vice President of People's Republic of China, Sir Brian Eldwood, President International Ombudsman Institution, Honorable Mr. He Yong, Minister of Supervision of China, all the fellow ombudsmen present here representing their respective countries, other distinguished guests, ladies and gentlemen.

2. First of all please permit me to state that this is my first visit to this great Asian country - China and that I am the Lokayukt (State Ombudsman) for the state of Madhya Pradesh, India and further I wish to convey that I have brought with me the greetings and good wishes of the people of India and particularly from the people of my own state Madhya Pradesh to the brethren of this great country of China.

3. Secondly, I express my gratitude to the honorable President of Asian Ombudsman Association as well as to the host country for the invitation extended to me for participation in this 7th Asian conference of ombudsman and for giving me an opportunity of presenting this paper on the theme about the role of ombudsman in improving Public Administration. In this context, I would be presenting my paper briefly on the said theme in relation to Indian scene with special reference to the State of Madhya Pradesh which I represent.

4. General : -

[Providing efficient, fair and inexpensive redressal of citizen's

grievances is one of the primary duties of the Government. There are numerous ways and means, world over, to help the citizens in their quest for redressal of their grievances. The institution of Ombudsman is one such mechanism. It can well be said that since after the second half of the last century, this institution of ombudsman is recognized as one of the dominant accountability mechanisms as compared to any other similar institution discharging public grievances and enjoined with duty, to ensure responsiveness and responsibility of administration towards its citizens. The role of Ombudsman, (besides redressing individual grievances), in relation to recommending improvements and reform of administrative norms and procedure, practices and policies is increasingly gaining support and legitimacy in the interest of good, efficient and effective administration with a view to provide better services to the citizens.]

The object of such work – shops and conferences as we are having the one here at Beijing is to strengthen the idea to sensitise the politico – administrative leadership to the core values of Ombudsman institutions so as to encourage such a policy formulation which may facilitate administrative reforms with a view to increase accountability and evolve better public administrative system. Another purpose to organize such conferences is to achieve the objectivities of preparing and strengthening the networking mechanism for the institutions of ombudsman by making their grievance – machinery more effective and relevant by mutual cooperation and interaction.

[It is common knowledge that after the world war II Government and public administration have undergone a tremendous change. The state functions have become multi – dimensional and complex while democratic expectations are touching new heights with the result there have been considerable institutional changes also so as to enhance the accountability of the Governments towards their citizens. Human Rights have become al-

most universally accepted in addition to various commissions and investigative mechanisms. Freedom of Information is yet another legislation besides the administrative tribunals to take care of the administrative grievances. But experience shows and it also goes without saying that above all the afore-mentioned institutions, commissions and administrative grievances agencies, the institution of Ombudsman has been dominant accountability mechanism that has developed as a better and more effective grievance machinery in the shape of citizen's defender in the wake of increase in executive powers while the parliamentary policies have proved utterly inadequate to bring the present executive to account. In this background and scenario the institution of Ombudsman alone is considered to be the crusader against evil of corruption and misuse of power and position by a public functionary. }

Some writers have described the office of Ombudsman as an institutionalised public conscience the essence of what government ought to do; that is to maintain the well being of the citizens, the preservation of individual liberty and equal treatment of all citizens by public administration and the bureaucracy.

The special characteristics of an excellent Ombudsman are independence, unhampered access to information, power to investigate and right to report only to the legislature or Assembly as opposed to the executive arm of the Government. The office of Ombudsman should be user-friendly and accessible to all. The task of Ombudsman is to see to the best of his ability that all who hold authority possess and have regard to responsibility towards individual citizen without any distinction.

5. The Indian Scene : -

The biggest single problem confronted by India as a developing country is the rising corruption in the field of public administration. The problem started raising its head right after India gained independence in the

year 1947. This was the time when the world war II had resulted into massive erosion in moral values the world over with India getting its own share. The situation was further compounded by the huge increase in the public spending with introduction of Five Year Plans combined with rapid expansion of bureaucracy which was largely entrusted with the implementation of the development schemes. The constitutional guarantee provided to the civil services unfortunately made them less and less accountable. This situation was aptly described by G.L. Nanda then Home Minister of India in his address to an Anti Corruption Meeting of the Chief Ministers as far back as 28.12.1963. I quote him here : -

“Side by side developments that have taken place in every parliamentary democracy, infant democracies like ours have to face the problem that the expansion of the bureaucracy, at least in the initial stages, must result in placing many persons in position of responsibility far beyond their capacity to shoulder. There are many who see manifest dangers in the new situation and some see totalitarianism as the inevitable consequence of what is described variously as ‘new despotism’, ‘triumphant bureaucracy’ or the ‘managerial revolution’. The fact remains that while, by and large, the Governmental process is still compounded of the pressures of public opinion upon Parliament, of parliamentary opinion upon Ministers and of ministerial opinion upon civil servants, the effectiveness of the time old remedies of parliamentary interpellations and criticisms against abuse of authority by the civil servants has been greatly reduced in its purpose.

It is now recognized on all hands that some machinery other than what has so far been in operation in parliamentary democracies should be provided for expeditious and adequate redress against abuse of authority affecting the common man?.

No sooner the rise in corruption was noticed the Government of India did initiate certain steps. The first one was the appointment of a Parlia-

mentary Committee headed by Shri K. Santhanam "To review the problems of corruption and make suggestions". On the basis of the recommendations made by this committee, a three - tier vigilance structure was introduced in the year 1964. At the top was the Central Vigilance Commission to look into the complaints against officers and employees of the Central Governments. State Vigilance Commissions were appointed at the state level and at the third - tier District Vigilance set up was introduced in the districts. However, this vigilance structure was only an extension of Government activity without having any statutory or constitutional force. This was soon followed by an Administrative Reforms Commission Report, whose main focus was on redressal of grievances rather than prevention of corruption. The Administrative Reforms Commission for the first time recommended the appointment of Lokpal (National Ombudsman) and Lokayukt (State Ombudsman) having statutory authority.

6. Current Status : -

In spite of the Administrative Reform Commission having recommended the appointment of Lokpal (National Ombudsman) as early as 1967, even after 35 years India is without a national ombudsman. However, taking cue from the Administrative Reforms Commission report some of the States decided to have States Ombudsman and presently state ombudsman are functioning in 14 out of 28 full states of the country. These 14 states have their separate enactments having different provisions. In our state the Lokayukt Institution was established in the year 1982. However, an attempt has been made for uniform legislation by preparing a Model Bill by the Lokayukt Conference of India. The Model Bill has been forwarded to all the states with a request that the Lokayukt (State Ombudsman) institution may be established in such state where it does not exist and new enactment should be passed by the state who already have such an institution containing the provisions suggested in the Model Bill to en-

sure uniformity in various provisions of the State Acts. However, the response from the States has been lukewarm so far.

7. State of Public Administration in India : -

After independence India inherited the colonial structure of public administration and there has been little change over the years. Besides, there has been tremendous expansion of bureaucracy during these years. Recent amendments in the constitution of India have provided for increased role of public representatives in the running of the Government. Three - tier vigilance structure System has been introduced in most of the states whereas the urban self - government has been further strengthened. However, this attempt also has not yielded the desired result. A situation has reached where there is authority without accountability.

8. Corruption scenario : -

┌ The lack of accountability in public administration has led to rampant corruption in all spheres. Corruption in defence deals, construction contracts, land allotments and public appointments is widely known. This is causing immense anxiety in the right minded people as corrupt public servant is a menace to the society because it is he who instead of helping the proper functioning of the Government, its policies, brings the Government and the society at large in disrepute. High level corruption is further dangerous as it is perpetrated by the people at the top who are hardly brought to book and punished. Alarmed at this state of affairs even the Apex Court of India in a recent judgment observed that corruption in a civilized society is a disease like cancer, if not detected in time is sure to malign the polity of country leading to dangerous consequences. Unabated corruption is a monster that feeds upon itself. This has its own dangers in reinforcing behavior for corruption and cynical but passive acceptance of corruption by people. It is this belief that known offenders can continue their corrupt practices with little risk of punishment, which reinforces the

conviction that this type of cynical social behaviour is normal. The danger is that such corruption is not even taken note of after some time while it gnaws at the vitals of the nation. }

9. Role of State Ombudsman : -

In these circumstances the role of State Ombudsman becomes very important as this is the only statutory instrument available for receiving complaints against corruption and misuse of power. The authorities covered include senior administrative and police officers, ministers and state Chief Minister. In some states the State Ombudsmen have independent police force under them to handle the corruption cases exclusively. If a corruption charge is established prima - facie, the state ombudsman can launch prosecution in the court of law. However, the biggest limitation in this regard is the sanction of the competent authority before a formal complaint can be filed in the court of law. The State ombudsman is also empowered to give various suggestions to the State Government to eliminate chances of corruption and mal - practices.

10. The Government Response: -

Frankly speaking the Government response in the matter of combating corruption has been mostly cosmetic. This appears to be so because of lack of strong political and administrative will. Of late protecting the corrupt public servants has become the latest way of displaying ones powers. The legal system prevalent in the country is also such that the anti - corruption agencies actually, receive little help. In fact, the entire legal system and the laws relating to corruption urgently need a review and re - look. Besides, a perceptible change in the entire judicial view in the corruption cases is also called for.

11. Impact of ombudsman on public administration: -

In spite of several infirmities in the enactments and various limitations, the ombudsman institutions, wherever they are functioning, have

far reaching impact on public administration. The State of Madhya Pradesh has set an example in this direction. In recent years two cases against State Minister were registered and investigated under the direction of State Ombudsman. When the Charges of corruption were prima - facie established, the State Governor was requested to accord sanction for prosecution as contemplated by law. In one case, the Governor refused the sanction on the advice of the council of ministers while in another case; the Governor accorded the sanction against the advice of council of ministers. In the latter case, a charge - sheet was filed in the competent court. Though the matter is still caught in legal wrangling our great consolation is that all the three ministers involved in the two above mentioned cases not only lost their jobs as ministers but could not even secure party tickets to contest State Assembly Elections.

Another case in point pertains to allotment of land to an influential newspaper on throw away price. About 43,500 sq. ft. of prime land in a commercial township was allotted to the said newspaper for a meagre sum of 10,000 U.S. dollars against market price of 700,000 U.S. dollars. On the basis of the adverse findings of the State Ombudsman, not only the said land has reverted back to the State Government but the practice of dolling out such favour is also curbed to a large extent.

These two examples will illustrate that in spite of limitations, the ombudsman can still play very effective role in improving the state public administration in their respective areas. The need of the hour, particularly in Indian context is that they must act as crusaders rather than remaining passive on lookers' lamenting of inadequacy of powers vested in them and the pathological apathy on the part of respective governments.

[As a matter of fact the time has come when all the governments should formulate and publicize a procedure for receiving complaints against its actions, if any, and all such complaints or grievances should be

properly and adequately resolved within the administrative domain itself within stipulated period. This will certainly facilitate the citizens to know precisely the reasons for decisions of the government. In the end it must be said that however smooth the government machinery may move, the errors, mistakes and lapses are bound to occur and therefore need for an independent monitoring agency is a must and cannot be underestimated and the Ombudsman being uniquely placed will definitely contribute in the improvement of public administration so as to ensure just and fair treatment of citizens. }

12. Before closing my address, I express my felicitations to the host country for holding and organizing this conference in a grand manner in its efforts to combat corruption. I also thank the audience, distinguished guests and fellow Ombudsmen who gave a patient hearing to me.

Thank you all once again.

(Justice Faizanuddin)

Former Judge Supreme Court of India

Lokayukt (Ombudsman) Madhya Pradesh, India.

The Prospect of Local Ombudsmen in Promoting Good Governance in Indonesia

By Antonius Sujata* and RM Surachman**

Introduction

Without doubt, the Ombudsman system is one of the symbols of democracy respecting the rule of law. Meanwhile, in pursuing and promoting good governance, most countries in the world nevertheless did not adopt the Swedish model genuinely. The variant of the Classic Ombudsman of Denmark, *Folketingets Ombudsmand*, became their model instead. Unlike the Classic Parliamentary Ombudsman of Sweden, which may prosecute the public officials including judges for committing offence while discharging their duties, the Danish Ombudsman system oversees the bureaucracy and public administration without having prosecution

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power. To this, the National Ombudsman Commission of Indonesia (hereinafter referred to as the "National Ombudsman") is not the exception, and yet it oversees the judiciary too. ¹

As a matter of fact, the National Ombudsman is a Non - statutory Ombudsman. It is based on the Presidential Decree Number 44 Year 2000. Nonetheless the National Ombudsman has accomplished to write a Draft of the Bill on the Ombudsman National. The Parliamentary Legislation Body is reviewing and preparing the Draft to be submitted to the Plenary Session as a Bill. If the Bill is passed, the next National Ombudsman will be a statutory Ombudsman and a Parliamentary Ombudsman as well.

Principle of Independence

In preparing the draft of the Bill, we were guided by universal principles of the Ombudsmanship. For practical purposes, the National Ombudsman has coined the principles as "Gottehrer principles", or "G - principles", since the 59 principles were discovered and reported in the research of Dean M. Gottehrer, an Ombudsman expert from California, the United States. ²

As Gottehrer reveals, the most important principles that must be maintained by any Ombudsman are independence, impartiality, fairness, credibility, and confidentiality.

Under the present Presidential Decree all expenditures for carrying out the duties of the National Ombudsman will be born by the budget of the Secretariat of State, or the Office of the President of the Republic.

Some of the view, this fact may be detrimental to the independence of the National Ombudsman. And yet, it has proved that its independent status is unquestionable. More than once, the National Ombudsman criticized the Chief Executive of Indonesia. The most notable one is its critic

on the President's resentment to appoint one of the two candidates for the Chief Justice recommended by the Parliament. At the end, however, the President Abdurrahman Wahid complied to the advice of the National Ombudsman.³

On the other hand, the Executive or other public institutions in Indonesia never intervened, instructed, and influenced the National Ombudsman. This is a good start for the National Ombudsman, since as Gottehrer points out "[i]ndependence and impartiality of the Ombudsman are critical to the office's success because otherwise people will tend not to use it if it appears to be another bureaucratic government office."⁴

Truly, G - principle 1 (G - 1), or the principle of independence is the most essential and it links with the purpose of its establishment, its sustainability, appointment of Ombudsman, the tenure of office, functions, and procedure of removal.

As Marten Oosting, the Past President of International Ombudsman Institute (IOI) as well as former Dutch Ombudsman points out, the independence of ombudsman encompasses three elements, namely institutional, functional, and personal independence.⁵

First, *institutional independence* means the Ombudsman is not part of any public agency. Besides, he holds a high level position in the government system. He may not therefore be controlled by any power of authority (G - 1).

Next, *functional independence* means the Ombudsman may not be dictated or pressed by any authority or influence. To prevent any intimidation or instruction restricting his performance, he must be empowered with wide powers and flexible procedure by an Act (G - 21 and G - 26). In addition, he must be sustained by adequate budget to promote professionalism and quality standard in executing his duties and authorities (G - 59).

Thirdly, *personal independence* means he must be a person of high integrity. The selection for his position in the office must be based on best qualification. His tenure of office must be limited and explicitly prescribed in the Act (G - 2 to G - 6). Likewise, salaries and facilities must be guaranteed and equal with those of government officials of very high echelon (G - 9 and G - 10).

The Demand for Local Ombudsmen

Nowadays, there are more or less 140 Ombudsmen Offices including more than 30 Local Ombudsmen Offices. Most of them are Statutory Ombudsmen, or based on Act. At the same time about 60 National Ombudsmen including some of Local Ombudsmen are provisioned respectively under the Constitutions and Sub - national Constitutions too.⁶

Meanwhile, right after the establishment of the National Ombudsman, many people contacted or consulted the Chief Ombudsman with the intention to establish a Local Ombudsman in their area. Incidentally, their desires met the Commission's activities to promote the ombudsman-ship in local level. The activities are mostly funded by the "Partnerships for Good Governance Reform in Indonesia". Many countries donated a large amount of funds to this organization for promoting good governance in Indonesia. Through the United Nations Development Program (UNDP) the "Partnerships" distributed the funds to many public and semi - public institutions including the National Ombudsman.

The establishment of Local Ombudsmen in Indonesia is one of the lacunae of the Presidential Decree. As a result, the National Ombudsman provisioned the matters under the future Ombudsman Act. To anticipate the future situation, the National Ombudsman has started to response the local demands to establish Local Ombudsmen on the Province and Local levels. Thus, the seminars and workshops conducted recently in some

Provinces are in line with the future Act.

In the meantime, many segments of the Indonesian people give pressure on the Government to have a better and broader decentralization of administration. The New Act on Autonomous Regional/Local Government eventually was enacted recently. Many of the opinion, nevertheless, that the implementation of a broader autonomy of regional or local government will also transfer the bad practices and behavior from the central government to the regional and local governments. In fact, the National Ombudsman has anticipated that bad situations right after from the start of its operation. On July 6 2000 in Surabaya, East Java, the National Ombudsman conducted a one - day seminar with the topic of "The National Ombudsman Commission and the Local Government". This seminar was the second one, after a two - day seminar conducted earlier in Jakarta (3 - 4 July 2000) with the topic of "The National Ombudsman Commission And Good Governance".

Those seminars were international in nature with the International Ombudsman Institute (IOI) President Sir Brian Elwood *cum* the Chief Ombudsman of New Zealand delivered comprehensive talks on ombudsmanship. Also Dr. Claes Eklundh, the Chief Ombudsman of Sweden, Dr. Marten Oosting, the immediate past IOI President *cum* former Ombudsman of the Netherlands, and last but not least Mr. John T. D. Wood, former Deputy Ombudsman from Australia gave comparatively informative presentations.

Further, through seminars and workshops on Local Ombudsman, simultaneously the National Ombudsman socializes the ombudsmanship and the understanding of maladministration. The goal of these campaigns is promoting and advocating good governance. As a result, the National Ombudsman is very conversant and well - prepared to face the pro and con audience, since the questions often raised have been discussed, analyzed

and evaluated in the post – seminars and post – workshops. Furthermore, the National Ombudsman often received good ideas and feedback from the various segments of the audience. For example, in the post – workshop held in Denpasar, Bali, some prominent figures and academicians reached a conclusion that Local Ombudsman is a must. Hence, they signed a declaration to organize an ombudsmanship forum for further advocacy on the establishing ombudsman concept on local level under the umbrella of the future Ombudsman Act.

Most Bali audience are of the view, that the people must concentrate firstly on the establishment of Province Ombudsmen, not Municipality Ombudsmen. Nevertheless, the City Government of Bandung in the Province of West Java almost reached lately the final stage of establishing the Municipal Ombudsmen Office. The preparation has been carefully taken through the steps of setting up an Ombudsman Office like the procedure suggested by the late Sir John Robertson, past Chief Ombudsman of New Zealand.⁷ If the City Ombudsman of Bandung is successfully inaugurated, he will be the first Local “Parliamentary Ombudsman” in Indonesia. Incidentally, as recorded in the history of world politics, the City of Bandung is also the place of the International Conference of the Afro – Asian Emerging Countries in the middle of last century.

Equally important, on 9 November 2001, *Majelis Permusyawaratan Rakyat* (MPR), or the Indonesian People’s Consultative Assembly, issued its *Ketetapan* (Resolution) Number VIII/MPR/2001. Pursuant to the Article 2 (Point 6 sub g) of the Resolution, in preventing and fighting the corrupt practice, collusion, and nepotism in Indonesia, the Executive and the Legislature have to legislate Acts followed by its instruments of implementation regarding *inter alia* the anti corruption agency, the protection of witness and victim of crimes, the freedom of information, the money laundering, and **the Ombudsman**. This is one of very significant

landmarks in the history of the ombudsmanship in Indonesia, since in the hierarchical of Indonesian legislation any MPR Resolution is above Acts and second only to the Constitution. No one will deny, that the "Ombudsman" mentioned in the Resolution includes the Local Ombudsmen too.

The Maladministration and Good Governance

[It is worth of notice, that the National Ombudsman has the missions in conditioning the atmosphere of more fair, more human, and more transparent. One of its efforts is to bridge the people having the right to a good service and the public authorities having the power to execute administration. Hopefully, in such condition there will be balance of control between both sides to avoid any deviation. Anyway, one should remind that the source of power was the people who later transferred it to the public administrators and authorities. The later groups are none other than the ones entrusted the mandate of executing the power.

Without having power to execute administration, most Ombudsman Institutions are the zealous oversight of the public administration. In other words, the Ombudsman Institutions will always control the executive branch of power—in Indonesia also the judiciary branch of power—by reminding the authorities i. e. the administrators, the bureaucracies, and the judges to observe the rules, norms, and laws. Besides, the Institutions may criticize the government or public agencies when they defect administration in the form of abuse of authority, abuse of discretion, and injustice.

Equally important, most Ombudsman Institutions are outside the executive branch of power, consequently the Institutions will become an autonomous supervising body. Holding this unique position, in discharging the power of control, the Ombudsman Institutions are more independent

and more impartial than any other supervising agencies. In case of Indonesia where the Institution is still an Executive Ombudsman in nature, it has proved to be independent and impartial as previously pointed out.⁸

The one and only similarity between Ombudsmen and public authorities or public administrators and public adjudicators is the mission of addressing public interest in the form of facilitating the people to acquire welfare, order, and justice. }

Fortunately, the National Ombudsman of Indonesia has more and more references on the standard of maladministration and the parameter of good governance as well. This knowledge has been acquired by comparative studies and research on particular countries or through secondary sources i.e. libraries and correspondences.

In the United Kingdom, under the "Crossman Catalogue", maladministration actions covered *inter alia* "bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, and arbitrariness".⁹ Further, Parliamentary Commissioner Administration's 1993 Annual Report (endorsed by Treasury Ministers in 1994) lists additional examples of maladministration, e.g. rudeness; unwillingness to treat the complainant as a person with rights; refusal to answer reasonable questions; neglecting to inform a complainant on request of his or her rights or entitlements; knowingly giving advice which is misleading or inadequate; ignoring valid advice or overruling considerations which would produce an uncomfortable result for the overruled; offering no redress or manifestly disproportionate redress; showing bias, whether because of color, sex, or any other grounds; faulty procedures; failure by management to monitor compliance with adequate procedures; and partiality.¹⁰

Also one can find a definition of maladministration in *The Annual Report 1997* of the European Ombudsman: "Maladministration occurs when a public body fails to act in accordance with a rule or principle which is

binding upon it." One year later the European Parliament adopted the Resolution welcoming this definition and in the following year the European Commission agreed to this definition too. ¹¹

It is safe to say, that according to Ms. Sunaryati Hartono, a University Professor and the Vice – Chief Ombudsperson of Indonesia, maladministration may be seen as corrupt practices, collusions, and nepotism or any actions leading to "KKN" (in Indonesian language: *korupsi kolusi*, and *nepotisme*). ¹²

It is safe to say that maladministration may be seen in numerous actions, passively or actively. For example, the Local Government Ombudsman of England lists and explains 42 axioms of "good administration" in one of its publications called "Good Administrative Practice" and the violation of which may constitute maladministration. ¹³ And in a more compact and simple guidance called "Guide to Standards of Best Practice", the Ombudsman Office of Ireland provides the following three yardsticks of best practice for any public officials: (1) properly; (2) fairly; (3) impartially. ¹⁴ At the same time, as previously mentioned, maladministration may lead to injustice. Hence, what is "injustice"? Someone has been caused injustice as a result of maladministration if he did not get a service or benefit he was entitled to or there was a delay before he got it; he suffered financial loss; or he was caused distress or upset. ¹⁵

[Now come to the next question: what is good administration? There are many references of it. One may find the explanations for instance in the "Code of Good Administrative Behaviour" drafted by the European Ombudsman. The Code is intended as the Guidance for the staff of the institutions and bodies of the European Union in their relations with the public. In short, they have to respect the principles of good governance which are laid down in the Code, *inter alia* the principles of: ¹⁶(1) lawfulness; (2) absence of discrimination; (3) proportionality; (4) absence

of abuse of power; (5) impartial and independent; (6) legitimate expectations and consistency; (7) fairness; (8) courtesy; (9) right to be heard and to make statements; (10) reasonable time – limit for taking decisions.

Undoubtedly, in executing its functions and missions, the Ombudsman Institution, whatever its name or title, should be built on the basis of the universal principles as previously mentioned encompassing independence, integrity, impartiality, proportionality, professionalism, no cost, *etcetera*.¹⁷

In the words of the Québec Ombudsman's Social Contract, the implementation of those functions and missions is *inter alia* for:¹⁸

- a. ensuring government transparency;
- b. promoting access to government services;
- c. ensuring government's decisions affecting citizens are legal and reasonable;
- d. respecting the rules of natural justice;
- e. serving citizens;
- f. understanding citizens and making their lives easier;
- g. respecting personal dignity;
- h. doing the utmost to act responsibly.

As a matter of fact, long before the present era of reformation in Indonesia, and before the administrative courts established through out the countries more than ten years ago, some Indonesian university professors and experts had described the standard of good governance. The administrative law scholars developed the works by using the similarity of the administrative law of Indonesia and that of the Netherlands.

Hence, in the context of Indonesia, good government principles more or less consist of the following principles:¹⁹ (1) legal certainty; (2) balance; (3) consistency in decision makings; (4) accurateness; (5)

the motive of decisions; (6) not confusing the competencies; (7) fair plays; (8) appropriateness; (9) meeting the legitimate expectations; (10) revoking the effects of nullified decisions; (11) protecting individuals' philosophy of life; (12) prudence; (13) serving the public. In other words, maladministration is generally illegal and not observing regulations. }

Preparing the establishment of the Local Ombudsmen

The following quotation is the words of the Article 2 of the Presidential Decree Number 44 Year 2000 regarding the principle and the authority of the National Ombudsman of Indonesia :

National Ombudsman is an independent supervising institution of the society based on the principle of *Pancasila*, (or the ideology of the nation,) and has authority to do clarification, monitoring, or investigation of the reports received from the public regarding the public administration, particularly the government officials and the judiciary in relation mostly with their serving to the people.

Accordingly, when the National Ombudsman discovers any kind of maladministration, it will ask clarification from the target group (reported institutions and agencies). Next, it will give recommendation to the target group with the notice that the case is being monitored. The Office categorizes maladministration as any action done actively or passively by any government institution or public agency in the form of undue delayed, inappropriate, arbitrary, deviate decisions or actions or apparently it is a result of faulty procedure, abuse of discretion and abuse of power, or it is in contradiction with law and regulations. Even if on the surface it is legal or not in contradiction with law and regulations, the National Ombudsman will do the same. In short, like the practice of many Ombudsmen in the world, the Indonesian Ombudsman will dispose the case based on equity

too.²⁰

As a matter of fact, many countries have developed both the National Ombudsman and Local Ombudsmen. Some, however, developed only local Ombudsmen without having the National Ombudsman. Some, on the contrary, developed only the National Ombudsman without having Local Ombudsmen. It is safe to say, there are three types of local ombudsmen, namely:²¹

Type 1. The strong and centralistic local ombudsmen like those in Uzbekistan and to certain extent in Sweden. Without doubt, the regional and local ombudsmen in Uzbekistan are the branches of the National Ombudsman in Tashkent. In case of Sweden, being a small country, there is not any single local ombudsman there. Practically, the Parliamentary Ombudsmen in Stockholm are local ombudsmen too, since they have authority to investigate the grievance against local public institutions.

Type 2. The Local Option Ombudsmen like those in some Provinces of Canada, some States of North America and Australia, and some countries of Latin America, particularly in Argentina and Mexico. Those local Ombudsmen are autonomous and established and budgeted by the provincial parliament, state legislature, and local councils, as the case may be. Hence, there are no hierarchical relations between those Ombudsmen and the National Ombudsmen.

Type 3. The Nationally Structured Local Ombudsmen established by the Central Government through National Parliamentary Act, like those in the United Kingdom (England, Wales, and Scotland) and North Ireland Local Government. Those Local Ombudsmen are appointed by the Head of State (the King or the Queen) after consulting the Prime Minister (in North Ireland, the First Minister) and the leader of opposition parties. Together with the National Ombudsman, those Local Ombudsmen established the Commission for Local Administration. This Commission is the

forum for monthly meetings to make *inter alia* the same standards of investigation, categories of maladministrations, and effective recommendations.

Apparently, Indonesia will adopt *type 2* model of Local Ombudsman. In other words, a Local Ombudsman in Indonesia is not a hierarchical institution under the leadership of the National Ombudsman. The relation between the National Offices and the Local Offices is limited to the cooperation or coordination such as the capacity building, increasing of human resources, inquiry, training, *etcetera*.

For that reason, the following principles should be referred in establishing the Local Ombudsmen in Indonesia:

1. The Institution is not a part of the any existing institution (*Institutional Independence*).
2. The Institution may not be intervened or pressed by anyone (*Functional Independence*).
3. An Ombudsman must be a person of high integrity with a definite tenure of function (*Personal Independence*).
4. Working procedure must be flexible and not formal.
5. The victim of maladministration may access the Ombudsman without the help of a lawyer or any body else.
6. It is free of charge or without cost.

Many are optimistic that the establishment of local Ombudsmen will anticipate the evil effects of the Autonomic Region. Local Ombudsmen will increase the efficiency and the effectiveness of controlling, since those principles and factors are rooted in the area of jurisdictions, local conditions, and local culture as well as traditions.

Concluding Remarks

As a matter of fact, the Central Government in Indonesia has long

held dominant power against the regional and local governments. This kind of centralized authority has lessened the function of control, since the authority tends to expand the realm of power, both functionally and institutionally. Accordingly, talking about the regional autonomy, one should notice, that the essence of autonomy in Indonesia is divulging the power of the dominant central government to the autonomy regions and local government. Nonetheless, as has been contemplated, it is not without the risks of transferring the deviation, maladministration, and other evil impacts too.

In this context, an independent controlling institution that has integrity in the region to create the principles of good governance is absolutely a must. In other words, the establishment of a Local Ombudsman by the relevant local government will be very helpful to increase the public supervision of that particular area.

In the years to come and with the spirit of realization of good governance in the regions and localities, we believe many questions around the establishment of Provincial and Local Ombudsmen in Indonesia will be answered. For example, how is the relations between the Provincial and Local Ombudsmen with the National Ombudsman; how to solve the conflict of jurisdictions between them; how to maintain the independence and autonomy of the Provincial and Local Ombudsmen, who will elect and appoint the Provincial and Local Ombudsmen; who will budget the Provincial and Local Ombudsmen.

To conclude, even though the Local Ombudsmen are dependent on the structure and function of local governments, they are the protector of the interest of the people living in the areas. Hence, *mutatis mutandis*, the local Ombudsmen in Indonesia will have the characteristics, the functions, and the authorities, similar to those of the future Parliamentary Ombudsman of Indonesia.

NOTES

1. Cf. Bengt Wieslander, *The Parliamentary Ombudsman in Sweden* (The Bank of Sweden Tercentenary Foundation & Gidlunds Bokförlag, 1999), pp. 14—15 and p. 17; see also Sir John Robertson, “The Danish Ombudsman: New Zealand Precedent” in Hans Gamlemtoft - Hansen and Flemming Axmark, eds., *The Danish Ombudsman* (Copenhagen: Department of Information, Ministry of Foreign Affairs, 1955), pp. 33—38.

2. See Dean M. Gottehrer, “Ombudsman Legislative Resource Document”, Occasional Paper # 65 (International Ombudsman Institute).

3. RM Surachman, “Ombudsmanship In Indonesia”, paper submitted to the Japanese IDE - JETRO Bangkok Roundtable Meeting (Bangkok, 19—20 November 2001).

4. Gottehrer, “Ombudsman Legislative”.

5. Marten Oosting, “Essential Elements of Ombudsmanship” in *Contributions on Ombudsman - ship* (N.p.: De National Ombudsman, 1988), hal. 16—19.

6. For example, Gottehrer mentions *inter alia* the Local Ombudsman Office of Cordoba (Argentina) and the Local Ombudsman Office of Vorarlberg (Austria) which are provisioned respectively under the Constitution of Cordoba and the Constitution of Vorarlberg; see Gottehrer, “Ombudsman Legislative”.

7. Sir John Robertson, “Setting Up An Ombudsman Office” in *The International Ombudsman Yearbook*, Vol. 1 (The Hague/London/Boston: Kluwer Law International, 1997), pp. 17—36; Also the writers thank their gratitude to Dr. Ivan Daniel Mifsud, Investigating Officer, Ombudsman Office of Malta, who sent the copy of the article.

8. See RM Surachman, *supra* n. 3.

9. Cabinet Office, "The Ombudsman in Your Files", rev. January 1997.
10. Ibid.
11. Office of European Ombudsman, *Annual Report 1999*, p. 17.
12. In one of the sessions to discuss the Draft of the Bill on the National Ombudsman of Indonesia.
13. See Local Government Ombudsman [of England], "Good Administrative Practice", re-issued February, 1995.
14. See "Office of the Ombudsman of Ireland: Guide to Standards of Best Practice" in Public Protector of South Africa, *Durban Conference Papers*, p. 98.
15. Local Government Ombudsman [of England], "Complain About the Council?", n.d.
16. See Jacob Söderman, "The Effectiveness Of the Ombudsman in the Oversight of the Administrative Conduct" in Public Protector of South Africa, *Durban Conference Papers*, p. 71 and pp. 72—77.
17. See "Prelude to the Launching of *The Indonesian Ombudsman Among Ombudsmen Internationally* An Anthology of Antonius Sujata and RM Surachman", Bidakara Tower (Jakarta, 20 March 2002), p. 6.
18. See Daniel Jacoby, "The Effectiveness Of The Ombudsman, Expertise And Fostering Awareness", Annex 1 in Public Protector of South Africa, *Durban Conference Papers*, pp. 96—98.
19. Cf. Kuntjoro Purbopranoto, *Beberapa Catatan Hukum Tata Pemerintahan dan Peradilan Administrasi Negara* (Bandung: Penerbit Alumni, 1975), pp. 28—40 and Indroharto, *Usaha Memahami Undang-Undang Tentang Peradilan Tata Usaha Negara* (Jakarta: Pustaka Sinar Harapan, 1991), pp. 307—312.
20. RM Surachman, "Draft of the Bill Regarding The National Ombudsman of Indonesia", paper submitted to the Airlangga University/

Utrecht University Workshop on Administrative Law (Surabaya, October 2000), pp. 2—3.

21. Dean M. Gottehrer, “Local Ombudsmen: The Role and Responsibilities of Independent Ombudsman Institutions”, Presentation to Local Ombudsman Workshop National Ombudsman Commission of Indonesia (Denpasar, Bali, 21 February 2002), pp. 9—10.

Prevention of, and Fighting Against, Corruption

By Seyed Ebrahim Raeisi *

The paper refers to the role played, and the measures undertaken, by Asian Ombudsmen in preventing emergence of, and in fighting decisively and fairly against, corruption, after having discussed the historical development of corruption phenomenon, the consequences thereof and the losses inflicted on the States and political and social rights of citizens.

And to this end, it specifically delineates the experiences of the Iranian State General Inspection Organization in this area in the recent years.

There have been also discussed in this paper the results of the 4th Asian Ombudsman which was held in Tehran, and the efforts of all Asian Ombudsmen for implementation and realization of the said Conference's resolutions are sought. And at the end, the author has wished success for the Asian Ombudsman and for the host country (China).

In the name of God

Mr. President, Ladies and Gentlemen:

Initially, it is incumbent upon me to express my gratitude to the honorable authorities on the People Republic of China, particularly my dear colleagues in the Chinese Ministry of Supervision, and to declare my

* President of State General Inspection Organization of The Islamic Republic of Iran.

satisfaction with the presence among the colleagues coming from other States. I also sincerely appreciate the efforts of those in charge of holding the 7th Conference of the Asian Ombudsman which has prepared the ground for exchange of ideas and experiences, and for creation of understanding among us, in order to attain a sublime objective, and wish them success.

Mr. President:

[Corruption in human societies is rooted deep in history, and is presently one of the issues from which the States of the world are suffering. The historical study of ancient civilizations such as Greece, Rome, Iran, China, and India is illustrative of the fact that consecutive wars, violence, disorder in the societies, and uprising against civilizations were attributed to corruption. In the ancient texts there have been made numerous references to this phenomenon. In various eras, scientists and intellectuals have discussed the issue of corruption, not only from the political and government standpoints, but also in view of the fact that bureaucratic and administrative corruption will cause the citizens' rights to be neglected, and spoil their acquired rights. This Montesque's statement holds true always that corruption causes a political and social order to become ugly and unpleasant. At any rate, in our era financial and economic corruption is spreading all over the world. It exists in all societies whether traditional, transient, developed or newly industrialized at different degrees, and is not limited to a specific country. Yet, the type, intensity and weakness thereof in each of the said societies varies. Corruption has been expanded and deepened along with the process of internationalization and globalization of the economy and daily expansion of capital and financial markets, and together with the activities of international and multinational companies which have resulted in their acquisition of the States markets, supply of goods and services, and enjoyment of various resources.] Based on the

reports presented, the amount of US \$ 500, 000, 000, 000 of the individuals' properties, whether those of public or private persons, is being plundered, annually.

[Asian countries are heading towards renovation, development, and institutionalization of their values. Naturally in this phase of internal and foreign investments, borrowing, financing infrastructure projects and concluding various contracts, increase of cash flow in organs, opening of the States doors on foreign and international companies, rapid progress in production instruments and consumable goods techniques, and the rush for the purchase thereof, change in the daily life of the people and the increase in demands from the Governments and like matters have produced more grounds for occurrence of corruption.

Today, it is possible to estimate the heavy losses that are inflicted upon societies by corruption, through econometric studies. Corruption diverts incentives; weakens institutions; and distributes wealth and power in an illogical and unfair manner. When corruption becomes widespread, economic and political developments cease.

The consequences of administrative and financial corruption may be categorized with due regard to its different forms: From the political perspective, corruption puts an end to legitimacy of governments; creates lack of confidence amongst people; and is followed by political disorder (political instability).

From the cultural perspective, corruption engenders decline of moral virtues, change of values, loosening of beliefs and enhancement of social disorder.

From the economic perspective, corruption will cause increase of economic costs, increase of illegitimate incomes, intensification of economic backwardness, and reduction of, and damage to, internal and foreign investments.

From the organizational perspective, corruption will result in damage to manpower development process, ineffectiveness of inter – organizational controls; waste of investments made pertaining to human resources; diminution of sense of responsibility and efficiency; multiplication of the opportunities to commit fraud; non – observance of standards and principles of meritocracy in employment and in appointments; weakening of evaluation system and defamation of organs’ and organizations’ prestige.

From the individuality perspective, corruption will bring about job insecurity; mental and psychological disorder; emergence of family disputes; damage to individual credibility and integrity; lack of due direction of individual talents; lowering of work incentives in employees; and priority of individual’s interests over organizational interests.

In order to prevent corruption from being created and formed, and to fight against it, the most rational thing to do is to eradicate its roots and to eliminate the factors producing (principal factors) as well as those facilitating its production. The fight against elimination of the aforesaid factors may be triggered off after their detection, through appropriate means. Bureaucratic corruption may be the product of administrative, management, cultural, social, political and economic factors, each of which elements requires special treatment, and needs realistic plans which depending on the situation of each State ought to be designed and implemented.]

Although at national level, in different States varying organizations are charged with the task of combating administrative and financial corruption, and at the international level, the United Nations Organization in its Resolution No. 54/128 adopted December 17, 1999 urged the Member States to draw up a convention for combating corruption, and indeed preliminary measures have already been taken in this respect, yet this responsibility also lies upon all ombudsmen who shall equally take appropriate actions for eradication of financial and administrative corruption, in

order to protect the rights of citizens, the public interests, and the national wealths of the States.

Mr. President:

It is now appropriate to explain, though concisely, the activities of Iranian General Inspection Organization in the area of combating against administrative and financial corruption, and the actions undertaken for preventing its emergence.

At the beginning of the last year, the Great Leader of the Islamic Revolution issued an 8 - Article Decree in which he ordered all the authorities concerned with the issue of combating administrative and financial corruption, including the State General Inspection Organization to take stringent measures required for identifying defective spots in the State administrative organs financial and economic operation, and to launch decisive and fair fight against corruption phenomenon.

Fortunately, the political will, the firm determination of the high authorities of the Islamic Republic of Iranian system, the public willingness and the people's religious and divine beliefs, as well as the conviction that a social and administrative correction is required to be directed towards the State administrative organs employees and other elements, pave the way for prevention, and fight against various permutations, of corruption. Consequently, in addition to the State General Inspection Organization which under the law is charged with the exercise of supervision and inspection in all administrative organs of the State, other organs also have taken measures in this respect which owing to time pressure, I will only refer briefly to the activities of the State General Inspection Organization in this area.

The State General Inspection Organization having modified its plans, using the State's expertise capability, having dealt with macro issues and having performed due supervision and inspection, presented many recom-

recommendations in various areas to the State's administrative organs, part of which recommendations has been carried out, and the rest is in process of implementation. The said recommendations concerned administrative and management, economic, cultural, social, political and civil policies. The recommendations on administrative and management policies for example were directed towards decentralization, power delegation, reduction in the size of the Government's scope of activities, standardization of the services rendered to the people, promotion of meritocracy system, modification of regulations relating to the organs' budgeting, correction of systems structures, methods and procedures of performing a job, and promotion of responsiveness of the organs to the people. In addition to the said recommendations, the State General Inspection Organization also recommended establishment of a system for rewarding hardworking managers and employees, and change of position, dismissal and suspension of services of the culprits.

At the end, I take this opportunity to refer to the Fourth Asian Ombudsman Conference which was held in Tehran on May 11, 1999. In the said Conference, a number of very useful and valuable papers were presented by different States; and four working committees discussed the following issues:

1. Administrative offenses, causes, effects, and ways for preventing their occurrence;
2. Role of supervision organizations in securing citizens rights;
3. Civil responsibility of the Government, and supervision over compliance of departments with it;
4. Place and role of supervision in the system of the Islamic Republic of Iran.

After the Committees' reports were submitted and the papers by the honorable Members of the Conference and the guests were presented, the

following conclusions were declared :

A. Training

1. General training for establishment of supervision and inspection culture;
2. Inclusion of inspection and supervision subjects in text books, corresponding to the levels of education;
3. Training Government employees for observance of the law and responsiveness;
4. Establishing an educational institute in Asia, after paying the respective costs;
5. Grant of scholarship to experts and Members of supervision and inspection organs.

B. Exchange of Information

1. Establishment of a databank containing information and experiences of supervision and inspection organs in the Secretariat, classification of the information and provision of services to all Members;
2. Necessity of making extensive research and investigation for achieving optimal process of supervision and inspection;
3. Exchange of information and experiences among the Members for combating administrative corruption, particularly in organized networks;
4. Conclusion of bilateral and multilateral cooperation agreements for the exchange of information required by supervision and inspection organs.

C. Cultural Activities

1. Increasing the public's awareness of the legal remedies and inspection institutions through mass media;
2. Acquaintance with the appropriate models and methods for developing individual and social supervision culture.

The following recommendations were also made in this Conference :

1. Independence of inspection and supervision organs, and provision of sanctions for non – compliance with the recommendations submitted by supervision organs;

2. Necessity of deleting the formalities, and shortening the time for doing inspection and for considering complaints;

3. Studying legal obstacles for carrying out inspection, and recommending appropriate solutions;

4. Regular cooperation in fighting against oppression and injustice in departments, particularly financial corruption.

The said recommendations were incorporated in the agenda of the State General Inspection Organization, and have had positive results. Certainly, implementation of these measures will result in promotion and propagation of the supervision culture, protection of citizens rights and execution of social and administrative justice in other honorable Member States.

I trust that the efforts of all Asian Continent's Ombudsmen, particularly those of the People Republic of China's Ombudsman, will result in promotion of the A.O.A and satisfaction of the Almighty God.

The Role of the Ombudsman in Improving Public Administration

By Hirose Shunichiro *

Abstract

The Administrative Counseling System of MPHPT is made up of three different but closely related bodies: the Administration Evaluation Bureau of the Ministry, which is one of the administrative agencies of the country; administrative counselors, who are government - commissioned volunteer citizens; and, the Administrative Grievance Resolution Promotion Council, which is composed of experts from outside government. These three bodies in close collaboration jointly undertake all functions of the Ombudsman system. Under this system, the Ombudsman's efforts not only to solve individual complaints but also to positively deal with them through administrative reforms in a wider sense, namely improvement or amendment of administrative operations, laws and systems, are expected to assume greater importance in the future, as a "positive measure to resolve complaints".

Initially, I should like to provide you with some background information on the Administrative Evaluation Bureau, part of the Ministry of Pub-

* Deputy Director - General, Administrative Evaluation Bureau, Ministry of Public Management, Home Affairs, Posts and Telecommunications of Japan.

lic Management, Home Affairs, Posts and Telecommunications, which I shall refer to from now on as the MPHPT. This Bureau is charged with policy evaluation, administrative evaluation and inspections, and also administrative counseling, which deals with complaints against the national administration of Japan. Then, in line with the theme of this conference, "THE ROLE OF OMBUDSMAN IN IMPROVING PUBLIC ADMINISTRATION", I shall make a presentation on the Administrative Counseling System of MPHPT.

The Administrative Counseling System of MPHPT is made up of three different but closely related bodies: the Administration Evaluation Bureau of the Ministry, which is one of the administrative agencies of the country; administrative counselors, who are government – commissioned volunteer citizens; and, the Administrative Grievance Resolution Promotion Council, which is composed of experts from outside government. These three bodies in close collaboration jointly undertake all functions of the Ombudsman system.

1. Outline of Administrative Evaluation Bureau

(1) Recent re – structuring of Government

Japan began central government reform in January 2001, reorganizing one Office (Prime Minister's Office) and 22 Ministries and Agencies into one Office and 12 Ministries.

As a part of this reform, a new "policy evaluation system" was introduced and new functions were added to our bureau's responsibilities. These include audits of individual Ministries' self – evaluations to ensure that they are being implemented in a rigorous and objective manner, and evaluations of the overall effects of a policy for which a number of Ministries are responsible, where evaluations by individual Ministries are not judged to be sufficient. The name of our Office was changed from the "Administrative Inspection Bureau" to the "Administrative Evaluation Bu-

reau", reflecting such change of functions. However, our administrative inspection (presently called Administrative Evaluations and Inspection) function remains unchanged. We continue to investigate how work is performed at the various Ministries and push for improvements to be made to ensure fair and efficient administrative implementation (Government Policy Evaluation Act came into force on 1st April 2002). In addition, we maintain our responsibility for the system and operation of administrative counseling, which will be the subject of my presentation today.

(2) *Legal Framework for Administrative Consultation*

Administrative consultation is an activity in which the field offices (Regional Administrative Evaluation Bureaus and District Administrative Evaluation Offices) of the MPHPT and the administrative counselors throughout the country receive complaints from citizens about the actions of governmental agencies and act as mediators to try to reach satisfactory conclusions.

The MPHPT Establishment Law stipulates that the Ministry is responsible for the following:

(i) necessary mediations for complaints with respect to matters handled by individual administrative agencies, matters handled by independent administrative institutions, public corporations and a part of authorized corporations, matters of central government mandates and financial assistance, and matters which local governments perform on behalf of the central government (statutory trusted affairs), and

(ii) matters related to the Administrative Counselors Law.

In addition, the Administrative Counselors Law stipulates that the Minister of the MPHPT shall commission "a person who enjoys the confidence of the community, has a deep understanding of administrative operations and a passion to improve them" to undertake the work of: (i) receiving people's complaints, giving necessary advice, and informing the

MPHPT (Administrative Evaluation Bureau) and the administrative organs concerned of the complaints; and (ii) responding to the inquiries of administrative organs concerned and informing the complaints of the results of reviews by the administrative organs concerned.

The administrative counselors are entitled to present their opinions to the Minister with a view to improving administrative operations based on what they have learnt through the work they do. The MPHPT sends these opinions to the Ministries or Agencies concerned, and many of them result in changes being made in relevant systems and operations. I shall provide you with more details about this a little later on.

2. Three bodies and the role of Ombudsman in improving public services

(1) *Administrative Evaluation Bureau, Ministry of Public Management, Home Affairs, Posts and Telecommunications*

Under the Administrative Counseling System, a person may lodge a complaint either with field offices of the Administrative Evaluation Bureau, or with the administrative counselor in the area, who, then informs the field offices or the administrative agencies concerned.

These field offices of the Administrative Evaluation Bureau of the MPHPT, Regional Administrative Evaluation Bureaus and District Administrative Evaluation Offices are located in 50 prefectural seats of governments, across the nation.

Upon receiving a complaint from the field offices of the MPHPT, the staff (numbering 200 nationwide) study the background, confirm the facts by making a site visit and requesting materials and explanations from the government agency if necessary, and if they find that a complaint is warranted they will mediate either verbally or in writing. To be more precise, the administrative agencies are informed verbally or in writing of the content of the complaint with their opinion on improvements when it is found

necessary to resolve the issue. In many cases, satisfactory solutions are obtained by simply forwarding the complaints to the agencies concerned.

The Administrative Counseling System of the MPHPT resolves complaints by taking such steps as to make notification or coordination and utilizing the nationwide network of Administrative Counselors, Regional Administrative Evaluation Bureaus, and District Administrative Evaluation Offices when a complaint involves more than two government agencies.

For an example of a specific improvement concerning a grievance related to multiple administrative agencies, please refer to Case 1 contained in the Collection of Complaints Handled.

(2) *Administrative Counselors*

Today, there are over 5,000 administrative counselors and the public can find at least one of them in the municipalities where they live. They are commissioned to undertake this work for a renewable term of two years within the jurisdiction of their own area.

As regards complaints received by administrative counselors, many are resolved by the counselors themselves. They are typically resolved by the administrative counselors informing the administrative agencies concerned of the complaints, with the latter subsequently reviewing the cases and taking corrective measures. There are also many cases for which a solution is found from explanations given by the administrative counselor to the effect that their complaints could not be justified or through furnishing appropriate information on government services.

The Administrative Counselors Law provides that "A counselor may express to the Director - General his opinion developed as a result of performing his duties with respect to improving administrative operations." (Art.4)

This opinion system has been introduced, as a counselor is considered to have many opportunities to grasp opinions requesting improvements

to administrative management through counseling grievances, which are submitted by residents or exchanging opinions with administrative organs and other counselors working in specific areas of administration in their respective regions. This system is different from other counseling systems, aiming at reflecting a broader public voice in the administration.

Counselors' opinions that point out important administrative problems, and are deemed necessary to be addressed by the MPHPT, are submitted to the Administrative Evaluation Bureau. In connection with these opinions, the Bureau also listens to the views of related Ministries, etc., as required and then notifies the said Ministries of the Counselors' opinions. Subsequently, the Bureau conducts a follow-up study to see what important measures have been taken concerning the problems.

Administrative counselors' opinions submitted to the Administrative Evaluation Bureau are fed back to the administrative counselors concerned, with the opinions of related government agencies or the Bureau attached.

In the 2000 fiscal year, 81 opinions were reported as matters that should be dealt with at the headquarters of the MPHPT and the number of these is increasing year by year (62 opinions in 1999). Regarding 10 opinions, specific improvement measures have been taken in line with proposals given by administrative counselors.

Incidentally, in 2000, a total of approximately 203,000 cases were dealt with by the system. Of this number, 60,000 cases requested information about the system and procedures, and 121,000 cases were deemed not to be within the jurisdiction of the system, such as civil disputes. Therefore, the true number of cases for which remedies and improvements of administrative operations were sought was about 22,000. These complaints were leveled at a wide range of administrative areas. Many complaints concerned services related to roads such as maintenance of roads

(3,225 cases); social welfare such as health and welfare for the elderly and national relief (1,532 cases); (1,203 cases); (1,136 cases) and (929). These are matters closely related to the daily lives of citizens or the rights and interests of individuals.

Approximately 70% of complaints are received and dealt with by administrative counselors in various districts of the country, while the remaining 30% are received and handled by the field offices of the MPHPT, located in prefectural capital cities throughout the nation.

(3) *The Administrative Grievance Resolution Promotion Council*

As government activities become more complex and technical and the people's needs become more diverse in a rapidly changing the socio-economic environment, we see an increasing number of cases for which it is not easy to provide a speedy response such as when both the complaint and the agency in question have a legitimate case under existing law or when the complaint is of such nature that only a change in law or measures with certain budgetary implications that in themselves can be a matter of national debate can provide a solution. In order to deal with such developments, the Administrative Grievance Resolution Promotion Council was created in 1987 as the Minister's advisory body to which a third-party opinion based on free ideas not restricted to existing administrative practice and rooted in the ideas of social justice and equality may be sought by the Minister and reflected in a resolution of above-mentioned category of cases.

Usually, the central councils as well as the regional councils are held four times a year. In the central council, approximately one or two new cases and several ongoing cases are tabled each time. A total of four new cases were discussed in FY2001. Including the regional council, forty-five new cases were discussed in that year.

This council is composed of seven private-sector experts from legal

and academic circles, and the media. And this council has been held fifty – seven times until March 2002. This council started as an advisory body to Director – General, Administrative Inspection Bureau, Management and Coordination Agency at first and then, for the purpose of further promotion of activating Administrative Counseling System, the council changed to an advisory body as Director – General, Management and Coordination Agency at April 1990.

Based on the Council's opinion, the MPHPT provides mediation, urging the individual agencies to review the existing administrative system and its operational procedures and take appropriate measures including a revision of pertinent law, resulting in changes which influence the interests of the people as a whole, as well as resolve the original complaint.

3. Concluding Remarks

In Japan, the government is currently carrying out fundamental administrative reforms, such as the promotion of decentralization of authority, large – scale reorganization of central administrative systems, enactment of a Law concerning Access to Information held by Administrative Organs, and promotion of deregulation in various areas. In the course of such reforms, the public's interest in public administration is increasing. On the other hand, as the socio – economic structure continues to change drastically, and public administration becomes complex and diversified, complaints against the administration have come to include those requiring amendments of laws and ordinances or substantial budget appropriations. Also, the number of grievance cases that are difficult to judge to provide a suitable remedy are increasing.

In order to handle these problems, the Ombudsman's efforts not only to solve individual complaints but also to positively deal with them through administrative reforms in a wider sense, namely improvement or amendment of administrative operations, laws and systems, are expected to as-

sume greater importance in the future, as a “positive measure to resolve complaints” .

Customer Complaints and the Role of Public Complaint Bureau

By Putrajaya *

1. Introduction

1.1 The challenges of the 21st century, particularly the issues of globalization and liberalizations based on K – Economy and K – Knowledge, citizens all over the world are confronted with massive information explosion that change their tastes and needs, perceptions and expectations. Issues of good governance, transparency and accountability are the battle cry of the day.

1.2 Citizens are now demanding the public service as well as the corporate sector to demonstrate public responsibility and good corporate citizenship with greater transparency, efficiency and effectiveness. Quality service to the public is no longer an exception but the norm. “Quality service must not only be given but must also seen to be given”.

2. Customer complaints

2.1 Complaints arise when customers are dissatisfied towards the products or service provided by the vendors, be them the private sector or the public service. The dissatisfaction arise due poor quality, overpricing, non – delivery or late delivery of products or services, non fulfillment of terms and conditions of sale and purchase agreement, unfair practices,

* Public Complaints Bureau, Prime Minister's Department, Malaysia.

negligence, misrepresentation, misconduct, inefficiency in the conduct of sales and purchases of goods and services, defective products, contaminated food, delay in getting insurance claims, breach of contract, etc.

2.2 For the public sector “public complaints” are complaints made by the public arising from their dissatisfaction towards any administrative government action they consider as unjust, not in accordance with existing laws and regulations, abuse of power, maladministration, misconduct of public servants, delay or nondelivery of service, lack of public amenities and inefficiencies in government departments and agencies.

2.3 Customer complaints is an integral part of customer service function of any organisation. Managing your complaints well means managing your customers well. Zero complaint is a myth. Complaints will happen even in excellent organisations due to equipments’ failure or computer breakdown as well as staffs’ attitude and weaknesses. However customer complaints are not necessarily negative towards organisations. Complaints which after investigations are found to be true, can be considered as free positive feedbacks from customers. These feedbacks can serve not only as early warning signals of weaknesses, but also can be used as invaluable inputs for products’ improvement and innovations to improve customers’ service.

2.4 According to studies done, customer complaints arise due poor communications between the vendors and their customers. Customers who complain against a vendor or a government department more often than not lament the lack or non – existence of properly established communication channels for them to direct their complaints. More often than not their complaint letters are either not attended to, misplaced or lost. Telephone calls to vendor are not accessible or not answered and if they are answered, the callers are passed for one staff to another which ultimately ended in the termination of contact.

2.5 The problem of communications are at two levels; (i) lack of public relations between the vendors/departments and their customers and (ii) lack of communications between the management of vendors/departments and their front - line staff.

2.6 Vendors/departments should focus their attention to improve their relationship with customers through effective and concerted public relations efforts, especially in disseminating the correct information about their products/services. Any change of policy or procedures affecting the customers must be effectively informed to the customers and the front - line staff. For government departments the services offered, such licensing of business premises by the local government authority, should be adequately and effectively publicised to enable customers to understand their role, functions and responsibilities and the rights of customers.

2.7 Customer complaints can be effectively reduced if vendors or government departments concerned have a comprehensive and suitable customer relations policy, clear policy implementation guideline, trained front - line staff and effective internal and external communications channels which are easily understood and implemented by all parties concerned. To improve the public relations with their customers, vendors or government departments should deploy trained and experienced staff to handle their customer/counter service facilities. Departments also should provide clear and the most - up - to - date guideline and checklist regarding any application for service or license including the guideline on how to fill forms and mandatory documents required to accompany those forms.

3. The Public Complaints Bureau (PCB) , Prime Minister 's Department

3.1 PCB was set up in 1971 to deal with complaints made by citizens against the civil service. It is different from the classical Ombudsman

system practiced by most developed countries. An Ombudsman is normally appointed by and acts on behalf of Parliament with powers to prosecute public officials. Such a system was found to be not suitable in the Malaysian context as it might engender much politicking and in the process hamper the efficient workings of the system. On the other hand, PCB is managed by public officials who are required to observe political impartiality.

3.2 In 1992, a new Development Administration Circular No.4 of 1992 on Managing Public Complaints was introduced by the Chief Secretary to the Malaysian Government which spearheaded a dramatic new approach in handling public complaints and redressing them. This provides the catalyst for innovative changes and a reappraisal of PCB's role.

3.3 On October 8, 2001 a new circular entitled "Meeting the Clients Programme" was issued by the Chief Secretary to the Malaysian Government mandating all government departments/agencies to implement a customer focused programme called "Meeting the Clients" at least once a month. PCB was given an additional responsibility to monitor and report to the government the implementation of this new programme.

3.4 On January 12, 2002 another new Development Administration Circular Letter No. 1 of 2002 was issued by the Chief Secretary to the Malaysian Government entitled "Improving the Effectiveness in Managing Public Complaints". This circular letter gives PCB three new additional functions in managing public complaints namely: -

(i) Monitoring and analysing of complaints received directly by government departments/agencies and reporting the matter to the Permanent Committee on Public Complaints(PCPC).

(ii) To implement a pro - active programme by reporting to respective government departments/agencies in cases of negligence, dereliction of duties, non - enforcement of laws and regulations which affect public in-

terests by such departments/agencies as a preventive approach to pre-empt public complaints.

(iii) To implement a "people caring" programme involving citizens at grass root levels to air their complaints, feedbacks or suggestions against departments at the district level to enable the respective departments to attend to such complaints immediately. All complaints, feedbacks and suggestions will be monitored by PCB until they are resolved or the required actions have been taken by the respective departments.

4. Role and Functions of Public Complaints Bureau (PCB)

4.1 The Development Administration Circular No.4 of 1992 laid down the responsibilities of the PCB. The objective of this Circular was to institute a more effective system of managing public complaints so as to enable speedy and effective actions to be taken on public complaints received against government agencies. PCB is expected to become the focal point for the public to forward their complaints and seek redress on any alleged administrative unfairness in their dealings with the government machinery. Additional responsibilities were given to PCB the Chief Secretary to the Malaysian Government Circular of October 8, 2001 and the Development Administration Circular Letter No.1 of 2002.

4.2 "Public Complaints" are complaints made by the public on their dissatisfaction towards any administrative government action that is unjust, not in accordance with the existing laws and regulations, abuse of power, maladministration and the like. Public complaints include all aspects of government administration except matters relating to government policies and matters that are within the ambit of the Anti - Corruption Agency, Legal Aid Bureau, Special Cabinet Committees on Government Administration and the Public Accounts Committee.

4.3 PCB is responsible for the implementation and management of public complaint with the following functions and responsibilities: -

(i)to receive public complaints on government administrative actions which are alleged to be unfair, against the existing laws and regulations including misconduct, misappropriation, abuse of power, maladministration and the like;

(ii)to investigate public complaints which are deemed to be valid;

(iii)to report the outcome of investigations and make recommendations to the Permanent Committee on Public Complaints (PCPC) and the relevant authorities;

(iv)to forward the decisions of PCPC to Ministries, Federal Departments/Federal Statutory Bodies/Local Authorities/Agencies concerned for the purpose of corrective actions; and

(v)to monitor the corrective actions taken by Ministries/Federal Departments/Federal Statutory Bodies/Local Authorities/Agencies concerned, and subsequently submit feedback to the PCPC.

4.4 The PCB makes systematic enquiry into complaints and allegations of a serious nature pertaining to administration and reports its findings to the PCPC, which would determine the appropriate actions to be taken. The PCPC comprises the following members: -

(i)The Chief Secretary to the Government (Chairman);

(ii)The Director - General of Public Services Department;

(iii)The Director - General of the Anti Corruption Agency;

(iv)The Senior Deputy Secretary - General in the Prime Minister's Department; and

(v)The Director - General of Malaysian Administrative Modernization and Management Planning Unit (MAMPU).

4.5 The Government has given this Committee extensive powers which include the right to institute investigations and to direct any officer

to account before it. It has also the right of access to records. In addition to these powers, it must be stressed that the fact that the Chief Secretary to the Government and Chairman of PCPC is the Head of the Malaysian Civil Service and yields wide – ranging powers inherent in the appointment. With such a battery of powers behind it, the PCB is certainly well equipped to discharge its responsibilities. It also reflects the government's commitment and concern in ensuring that the legitimate rights of every citizen are not trampled upon by irresponsible public servants in the discharge of their duties.

4.6 The investigation methods used by PCB are comprehensive and thorough. In fact, the thoroughness of the Bureau's investigations has turned it into a vibrant and vital agency in providing crucial information and feedbacks to the government on the Civil Service.

4.7 The government had acted on the findings and recommendations of the PCB whereby certain anachronistic rules and practices were replaced, new interpretations given to policy practices to meet changing demands and the strengthening of certain procedures. Besides redressing genuine individual grievances, the findings of the PCB had also seen the termination of the services of certain errant officials; some were retired in the public interest while others were dismissed or disciplined. This goes to prove that PCB has contributed immensely towards the building up of an efficient, clean and quality Civil Service.

5. Method of Managing Public Complaints

5.1 Upon receiving public complaints, the PCB will then undertake the following: –

(i) issue an acknowledgement letter within 7 working days from the date of receipt of the complaint;

(ii) undertake preliminary investigation to ascertain the validity of

the complaint;

(iii) submit comments on the complaint to the PCPC for consideration;

(iv) carry out detailed investigation after receiving delegation of the power to investigate from the PCPC;

(v) table the outcome of investigation to the Committee for its decisions;

(vi) forward all correspondence regarding complaints to the relevant Secretary General/Head of Federal Department/Head of Federal Statutory Body/Head of Local Authority/Head of Agency concerned;

(vii) monitor and ensure that Ministries/Federal Departments/Federal Statutory Bodies/Local Authorities/Agencies concerned take corrective actions; and

(viii) keep records of all complaints received. The records shall contain basic information such as the dates of receiving complaints, dates of acknowledgement letters, the latest position of the complaints, the decisions of the PCP and the required follow – up actions.

5.2 Modus Operandi of PCB

ANNEX A shows the workflow and activities on the modus operandi of PCB and how a complaint that is received is handled by PCB from the beginning until the complaint is resolved.

6. PCB's Administrative Improvements

6.1 In its efforts to achieve a high level of productivity and quality services and also to fulfill the expectations of the public to get a more efficient and excellent service, the government is continuously introducing administrative modernization programmes and reforms. Thus, a number of circulars pertaining to administrative developments were issued. New systems are being developed and various programmes are being introduced to assist

and guide the public sector officers to improve their performances and to instill in them the spirit of innovation and creativity.

6.2 In line with this development, the PCB increased its efforts at strengthening and consolidating its role as the focal point for the public to forward their complaints in their dealings with various government agencies. PCB aspired to make the system of managing public complaints as an effective mechanism and that could be used as a model for others to follow. This included its responsibility to redress all genuine complaints and to identify weaknesses of government agencies in the efforts to improve their performances. The issuance of the Chief Secretary to Malaysian Government Circular regarding "Meeting the Clients Programme" on October 8, 2001 and the Development Administration Circular Letter No. 1 of 2002 regarding "Improving the Effectiveness in Managing Public Complaint" on January 12, 2002 will help to strengthen and consolidate PCB's role as the focal point for public complaints.

6.3 Public complaints could be used as one of the inputs for a government agency in its efforts to measure its level of performance. These complaints enable the agency to receive early warnings on any weaknesses in its administrative system or human resource management. In managing public complaints, the PCB had been successful in playing its role whereby it had recommended a number of changes in administrative and management systems in the agencies concerned and also initiated disciplinary actions on officers who had erred in carrying out their duties through acts of negligence, maladministration or misuse of power.

6.4 PCB had introduced a number of administrative improvements in its effort to upgrade its effectiveness. These improvements included changes in aspects of management, organizational structure, revision of duties, publicity and its "modus operandi" of managing public complaints. The improvements also include changes to organizational structure and mode of

operation such as: -

- Mobile Complaints Counter
- Action Oriented Meetings
- On the Spot Investigation/Remedial Action
- Inspectorate
- Publicity
 - Newspaper
 - TV
 - Radio
 - Pamphlets/Posters
- Customer Satisfaction Index(CSI)
- Scanning newspapers
- Liaison Officers on public complaints at all government agencies.

PCB has also created its own homepage and has an e - mail facility to enable complainants to complain electronically in line with the Malaysian Government policy towards Electronic Government(EG). Complainants can at any time check the status of their complaints through the internet. PCB's homepage address is www.bpa.jpm.my and the e - mail address is [aduan @ bpa.jpm.my](mailto:aduan@bpa.jpm.my).

6.5 24 - Hour Voice Mail Messaging

In its efforts towards upgrading/improving/enhancing the quality of its service which is client - oriented, PCB introduced a system of receiving complaints 24 - hours a day/7 days a week in November 1999. Complainants can make use of this service by just making telephone calls to a designated telephone number. This 24 - hour voice mail messaging service facilitates the complainants in forwarding their complaints at any time of the day through the telephone.

6.6 Total Electronic Office(TEO)

As of October, 1999 an electronic/computerized public complaints handling system, with the co-operation of the private sector based on the concept of smart partnership, was launched. This system consists of two modules as follows: -

(i) a system accessible to the public to enable them to make complaints through e-mail or the web. This system allows the complainants access to check the status of their cases and also to interact directly with the PCB officers concerned;

(ii) an internal work flow management system to enable officers and staff to key-in the complaints, assign the complaints, forward the findings of investigations carried out and to make decisions on resolution of cases based on available case information. All the tasks related to the handling of complaints are carried out electronically or "paper less". This system also enables the PCB to retrieve the latest statistics on the total number of complaints received against each and every Ministry and agency, the total number of complaints resolved and other statistics and information so required;

(iii) to ensure that the electronic office is implemented successfully, all officers and staff of the PCB had been given "hands on" training since November 1999. As of January 2000, all complaints received are handled electronically.

6.7 MS ISO 9002 Certification

In April 2001, PCB was awarded a MS ISO 9002 certification for quality assurance for its core business of 'public complaints management'.

7. The Publication of Annual Report

7.1 Our Prime Minister has announced his determination to attain the goals of Wawasan 2020 (Vision 2020) and to achieve this, the adminis-

trative machinery has to be clean and efficient. He believes the Civil Service should not only be transparent and accountable to the public but it must be manifestly clear to all that it is so. Moved by these considerations the government has decided to make public the Annual Report of the Public Complaints Bureau. Despite the implications of such a move, the government feels that the public should be aware of what goes on. Indirectly, the fear of adverse publicity might deter dishonest public officials from abusing their position.

7.2 The PCB received a total of 2,770 complaints in 2001 as compared to 3,621 in 1996 a decline of 23.5%. The decrease in the number of complaints received is the result of improved services provided by government agencies based on their Client's Charter and also due to the positive attitude of civil servants who are now more motivated and productive.

7.3 Of the 2,770 complaints received in 2001 2,553 cases were registered for investigation. (The balance of 217 cases are miscellaneous cases of a general nature, complaints against the private sector or request for information and advice). To date 2,171 cases were resolved or 85.03%, out of which 1,128 cases or 51.9% are found to have basis. The balance of 382 unresolved cases are still being investigated.

7.4 The categorization of complaints are based on issues rather than activities as shown in ANNEX B.

7.5 PCB also received cases of complaints from the office of the Chief Secretary. These cases are often serious in nature and included cases of discourtesy, abuse of power, maladministration and inordinate delays in official matters. PCB gives priority to these cases and reports were forwarded directly to the Chief Secretary for the consideration and decision.

7.6 The high rate of settlement of cases demonstrated the fact that government agencies have a sense of urgency in settling problems that were forwarded to them. In addition, the improvements introduced by PCB

helped to further enhance the system of managing public complaints so that more cases could be resolved.

7.7 The high rate of settlement of cases is also attributed to the interest shown by The Chief Secretary to the government, who constantly brought up issues relating to PCB in meetings with the Secretaries General of Ministries and Heads of Federal Departments/Agencies. They were reminded to pay greater attention to complaints forwarded by PCB. In this respect, many agencies have in fact created their own mechanism to better manage public complaints.

7.8 The report has shown that the work of PCB has resulted in a wide range of remedies being made available. It has prevailed on departments to settle disputed pensions and other claims, to retract wrongfully imposed fines, to secure information and documents for the parties concerned, to reverse unreasonable and unfair decision etc. In addition there have been instances where the PCB's probe brought to light entitlements to the complainants that they were not aware of.

7.9 The PCB investigations not only led to the redressal of individual grievances but equally important resulted in some re-examination by the civil service of administrative practices which are anachronistic in nature. In this context, the PCB made valuable contributions to the Malaysian Administrative, Modernization and Management Planning Unit (MAMPU), which is charged with the responsibility of modernizing the administrative service.

7.10 In instances, where no remedies were possible because of legal constraints, the PCB had made recommendations to the relevant authorities for a reinterpretation or amendment of the laws and rules to suit the changing times.

7.11 The report has highlighted several cases of inefficiencies but in a large and expanding civil service such isolated incidents are in-

evitable. However, PCB will spare no efforts in ensuring the minimization of such occurrences.

7.12 PCB also produced Quarterly Reports which are forwarded to the Secretaries – General of Ministries and State Secretaries of all states to enable them to monitor complaints against the respective Ministries/Departments/Agencies and the state administration/departments/agencies.

8. Conclusion

PCB had undergone a process of evolution responding to the continuous changes and improvements in the public sector making it a vibrant home – grown product of Malaysia.

Public Complaints Bureau(PCB)

Prime Minister's Department

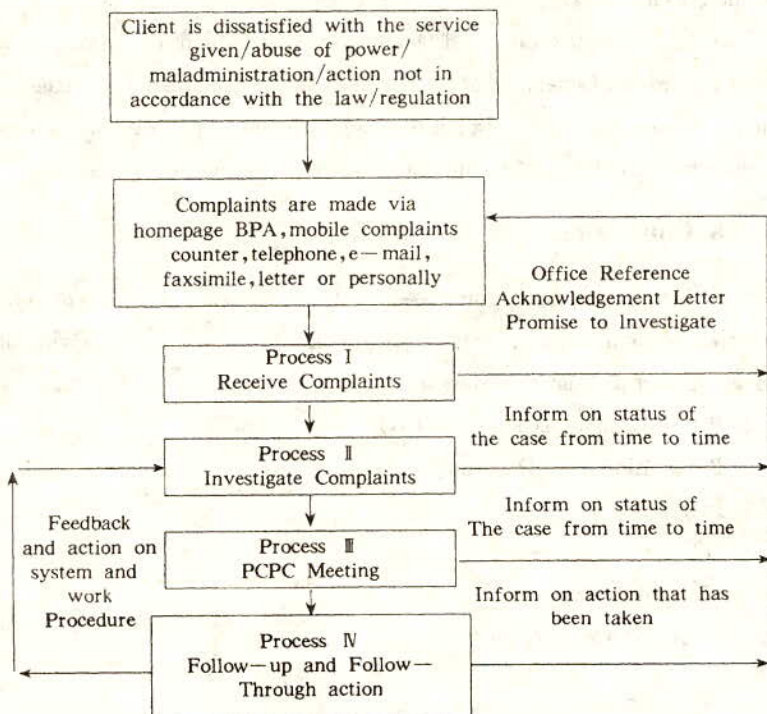
Putrajaya

MALAYSIA.

05 April 2002

kkerjaNTAN/kp/puzi

COMPLAINTS MANAGEMENT SYSTEM



CATEGORY OF COMPLAINTS FOR CASES RECEIVED IN 2000 AND 2001

No.	Category of Complaints	Year	
		2000 %	2001 %
1	Delays/No Action	58.92	53.48
2	Unfair Action or Decision	18.27	19.86
3	Lack of Public Utilities/Amenities	1.73	2.17
4	Inadaquate, Biased or Outdated Laws, Rules and Regulations	0.86	0.11

No.	Category of Complaints	Year	
		2000%	2001%
5	Abuse of Power	1.40	2.28
6	Misconduct of Public Servants	3.07	3.20
7	Failure to Adhere to established administrative manual and procedures	2.53	1.48
8	Advisory Services or Enquiries	5.93	4.22
9	Failure to Enforce Laws and Regulations	5.50	8.39
10	Poor Service	1.78	4.79

Ombudsman and Improvement of Public Administration

By Imtiaz Ahmad Sahibzada *

Abstract

Pakistan as a Federal Republic has a Wafaqi Mohtasib or Federal Ombudsman, a Federal Tax Ombudsman and an Ombudsman for each of the four Provinces less one. An evaluation of the functioning of these Offices in the context of *improvement of public administration* in an *analytical framework* of (i) the redress of individual grievances against mal-administration; (ii) contribution to the evolution of Administrative Law through interpretation of laws, rules and regulations; (iii) specific directions to Agencies for amendments of laws, rules and regulations; and (iv) specific recommendations to the Agencies for changes in administrative structure, procedures and mode of performance of functions, leads to the following conclusions – (a) the ‘Ombudsmanship’ process has had a positive impact on the improvement of public administration; (b) most complaints against mal-administration (80%) are against six service organizations. These are repetitive in nature implying weak internal monitoring, supervision and control mechanisms leading to frequent violation of rules, regulations and prescribed procedures; (c) an effective monitoring and implementation system needs to be instituted in the Offices of the Ombudsman so that the recommendations in each case get to be implemented

* Pakistan Ombudsman.

in the prescribed time frame of each without having to wait for 'implementation petitions' by concerned citizens; (d) the Provincial Governments should consider establishing a presence of the Provincial Ombudsman at each District Headquarter; (e) the Provincial Government of the NWFP, like the other Provinces, should establish an Office of the Provincial Ombudsman; and (f) to radically change the tone and tenor of *public administration* would require a qualitative change in the personnel. Selection on merit; periodic updating of skills through in-service training; promotion on the basis of performance empirically assessed; insulation, to the extent possible, from the pulls and pressures exerted by the "political process" for undue favors; and an adequate compensation structure, would go a long way in attracting talent to the public services and obviating some of the major ills afflicting it. This problem has begun to be addressed in earnest.

Introduction

To facilitate an understanding of the Ombudsman process and the functioning of the institutions created in this regard in the context of Good Governance and the improvement of Public Administration in Pakistan, it would be of benefit to note at the outset, though briefly, the political and administrative structure of Pakistan. It is this structure which determines the nature of these institutions and the scope of their operations.

This paper is consequently divided into two parts. A descriptive portion dealing with the structure of the Federal, Provincial and Local Governments - particularly the District Government - followed by an analytical portion dealing with the establishment of the institutions of Ombudsman and an evaluation of their functioning in the context of promotion of good governance and improvement of public administration.

The Political and Administrative Structure

The Republic and its Territories

According to the Constitution, 1973, Pakistan is a Federal Republic known as the Islamic Republic of Pakistan. Its territories comprise the Provinces of the Punjab, Sindh, North – West Frontier and Balochistan; the Islamabad Capital Territory (ICT) or the Federal Capital; the Federally Administered Tribal Areas (FATA); and such states and territories as are, or may be, included in Pakistan, whether by accession or otherwise.ⁱ Each of the Provinces, for purposes of territorial administration and Local Government, is divided into a number of Districts of varying sizes and population not necessarily connected with the over all size of the Province in terms of area or population. The Punjab has 34 Districts, Sindh has 16, NWFP 24 and Balochistan 22.ⁱⁱ

Population

The latest census of 1998 shows that Pakistan has a population of 132,352,279 with the following distribution; Punjab: 73,621,290; Sindh: 30,439,893; NWFP: 17,743,645; Balochistan: 6,565,885; FATA: 3,176,331; and Islamabad Capital Territory: 805,235.ⁱⁱⁱ

The Political Structure of the Federation

The essential components of the political structure of the Federation are the President; the Majlis – e – Shoora (Parliament) consisting of the National Assembly and the Senate; the Attorney General; the Chief Election Commissioner; and a Cabinet of Ministers with a Prime Minister at its head.

The President, who is the head of the State, is elected by members

of an Electoral College consisting of Members of both Houses of Parliament and Members of the Provincial Assemblies.^{iv} He holds office for a term of five years.^v This mode of election has, on critical occasions in the political circumstances of the country, been dispensed with in favour of a resort to a National Referendum under the provisions of a specific Article of the Constitution.^{vi} The Executive authority of the Federation vests in the President and is exercised by him directly, or through officers subordinate to him, in accordance with the Constitution.^{vii}

The National Assembly is elected for a term of five years on the basis of universal adult suffrage through a direct and free vote.^{viii} Each Province, FATA and ICT have been divided for the purpose into a number of single – member territorial constituencies on the basis of population.

The number of Seats in the National Assembly for the forthcoming elections scheduled for October 2002 have been fixed at 357 of which the General Seats are 272, the Seats reserved for Women are 60 and the Seats reserved for Technocrats are 25. The distribution of these over the Provinces, FATA and the Federal Capital are contained in the table below –^{ix}

Province/Area	Number of General Seats	Seats reserved for Women	Seats reserved for Technocrats	Total Seats
NWFP	35	8	3	46
FATA	12	–	–	12
Federal Capital	2	–	–	2
Punjab	148	35	15	198
Sindh	61	14	6	81
Balochistan	14	3	1	18
Total	272	60	25	357

The Senate consists of 87 seats of which 14 are elected from each Province by the Members of each Provincial Assembly; 8 are elected from FATA by the Members of the National Assembly from the Federally Ad-

ministered Tribal Areas; 3 are elected from the Federal Capital; and 5 are elected by the Members of each Provincial Assembly to represent Ulema, Technocrats and other professionals. The election to the seats allocated to each Province is held in accordance with the system of proportional representation by means of the single transferable vote.^x

The Cabinet of Ministers, with the Prime Minister at its head, aids and advises the President in the exercise of his functions.^{xi} The Prime Minister is appointed by the President from amongst Members of the National Assembly who commands the confidence of the majority of the Members of the National Assembly.^{xii} The Federal Ministers are appointed from amongst the Members of both Houses of the Parliament by the President on the advice of the Prime Minister.^{xiii}

The Judiciary

The judicial structure of Pakistan consists of a Supreme Court at the Federal level, a High Court for each Province^{xiv} and the Court of the District and Sessions Judge for each District. There are a number of Additional District and Sessions Judges in each District complemented by a number of Courts of the subordinate judiciary and Judicial Magistrates at the Tehsil level.

At the Federal level there is also a Federal Shariat Court for the hearing of cases relating to the Shari‘a – the Islamic Religious Code.

Distribution of Legislative powers between the Federation and the Provinces

Legislative powers between the Federation and the Provinces have been distributed on the basis of two lists – the Federal Legislative List and the Concurrent List. The Federation has exclusive power to make laws with respect to any matter in the Federal Legislative List while both the

Federation and the Provinces have powers to make laws with respect to any matter in the Concurrent Legislative List. The Provinces have been entrusted with the residuary powers to make laws with respect to any matter not enumerated in either the Federal Legislative List or the Concurrent Legislative List. For Areas not included in any Province these residuary powers rests with the Federation.^{xv}

Federally Administered Tribal Areas

The Federally Administered Tribal Areas include the Tribal Areas adjoining the Districts of Peshawar, Kohat, Bannu and Dera Ismail Khan of the North – West Frontier Province and the Political Agencies of Bajaur, Orakzai, Mohmand, Khyber, Kurram, North Waziristan and South Waziristan.^{xvi}

A Political Agency is the name of the geographic unit into which FATA is divided for purposes of Administration. Each of these Agencies is administered by an officer called the Political Agent who is directly responsible to the Governor of the NWFP for its good governance. Only a few of the laws operative in the rest of Pakistan have been extended to the Tribal Areas. The tribes inhabiting these areas administer themselves, as it were, in accordance with the customs prevailing in each Agency from times immemorial under the supervision of the Political Agent.

As its name implies, the FATA is Federally administered. The Executive authority of the Federation extends to it through the Governor of the North – West Frontier Province. No act of the Parliament applies to any of the Tribal Areas of FATA unless the Governor, with the approval of the President, so directs.^{xvii} Neither the Supreme Court nor the High Court exercise any jurisdiction in relation to a Tribal Area unless Parliament by law otherwise provides.^{xviii}

Administrative Structure of the Federal Government

The Federal Government is, for administrative purposes, structured on the basis of Divisions. A Division is a self – contained administrative unit responsible for the conduct of business of the Federal Government in a distinct and specified sphere and declared as such by the Federal Government.^{xix}

These Divisions have a number of ‘Attached Departments’ linked to them. An Attached Department means a Department which has a direct relation with a Division and has been declared as such by the Federal Government.^{xx} A Division or group of Divisions constitute a Ministry.^{xxi} In addition to these there are a number of Autonomous and Semi Autonomous organizations in the public sector. These, in accordance with the subject dealt with are administered by Boards of Directors on which the subject – specific Ministry is represented through the Secretary or Additional Secretary of the Ministry or Division.

Each Ministry is headed by a Federal Minister – in – Charge of the Ministry.^{xxii} The Administrative head of a Division or a Ministry is a permanent Civil Servant who is called a Secretary or Acting Secretary to the Government of Pakistan. Where there is no Secretary, the Additional Secretary or Joint Secretary is placed in charge.^{xxiii} The Secretary, being the official head of the Division or Ministry, is responsible for its efficient administration, discipline, the proper conduct of business assigned to it and for the due execution of sanctioned policy.^{xxiv}

There are presently twenty – six Ministries in the Government of Pakistan and thirty – five Divisions.^{xxv}

The Cabinet Secretary heads the Cabinet Division and is, invariably, the senior most Civil Servant. He is responsible, inter alia, for the processing of all Summaries meant for consideration by the Federal Cabinet

and for the authentication and issue of minutes of Cabinet meetings. Being the senior most Civil Servant he is the Convener of the Secretaries Committee which meets periodically to consider matters of policy on which the collective advice of the Secretaries is required.

Political Structure of the Provinces

At the level of the Provinces the essential components of the political structure are the Governor; the Provincial Assembly; the Advocate General; and a Cabinet of Ministers headed by a Chief Minister.

The Governor is appointed by the President on the advice of the Prime Minister^{xxvi} and holds office during the pleasure of the President.^{xxvii} The Executive Authority of a Province vests in and is exercised by him directly or through officers subordinate to him.^{xxviii}

The Provincial Assembly consists of a number of members based on population of the respective Provinces. For the forthcoming General Elections scheduled for October 2002, the number of General seats and the seats reserved for Women and Technocrats is specified in the following table – ^{xxix}

Provincial Assembly	General Seats	Seats reserved for Women	Seats reserved for Technocrats	Total Seats
Punjab	297	66	27	390
Sindh	130	29	12	171
NWFP	99	22	9	130
Balochistan	51	11	5	67
Total	577	128	53	758

The Provincial Cabinet of Ministers, with the Chief Minister at its head, aids and advises the Governor in the exercise of his functions.^{xxx}

The Chief Minister is appointed by the Governor from amongst Members of the Provincial Assembly who commands the confidence of the majority of

the Members of the Provincial Assembly. ^{xxx}

The Provincial Ministers are appointed by the Governor from amongst Members of the Provincial Assembly on the advice of the Chief Minister. ^{xxx}

The Executive Authority of a Province extends to the matters with respect to which the Provincial Assembly has power to make laws. ^{xxx}

Administrative Structure of the Provincial Governments

A Provincial Government is, for administrative purposes, structured on the basis of Departments. A Department, like the Division in the Federation, means a self contained administrative unit in the Secretariat which is responsible for the conduct of the business of Government in a distinct and specified sphere. ^{xxx}

Each Department has one or more Attached Departments linked to it which deal with subjects assigned to the Department. One or more Departments may be assigned by the Chief Minister to a Minister. ^{xxx}

Each Department is headed by a Secretary to the Government and consists of such other officials as Government may determine. ^{xxx} The Secretary is responsible for the efficient administration and discipline of the Department and the conduct of business. ^{xxx}

The work of all the Departments of the Provincial Government is co-ordinated by the Chief Secretary. ^{xxx} He also heads the Secretaries Committee to facilitate coordination amongst the Departments. ^{xxx} All cases meant for consideration of the Cabinet are submitted to the Chief Secretary for placement on the Agenda. ^x

The Provinces were until lately divided for purposes of Administration into a number of distinct territorial units called Divisions. These, in turn, were divided into Districts and Tehsils. The Divisional tier of Administration has since 14th August 2001 been done away with to pave the

way for the devolution of powers to the District, Tehsil and subordinate levels of administration.

The subject specific Departments of the Provincial Government were organized at the Provincial, Divisional, District and Tehsil levels. With the elimination of the Divisional level of Administration, they are now represented at the Provincial, District, Tehsil levels and below.

The Political and Administrative Structure of Local Government

To devolve political power and decentralized administrative authority for good governance, effective delivery of services, and transparent decision - making, the scheme of Local Government has been implemented in all the Districts of the Provinces. This has enabled political power and administrative authority to be decentralized to accountable Local Governments at the District levels and below for exercise through institutionalized participation of the people at the grass - roots level.^{xli}

Local Government is a comprehensive term used for the institutions of governance set up for 'local areas'. A local area consists of a Union, Tehsil Town and District and City Government in ascending order.^{xlii} This thus includes a District Government or a City District Government and *Zila* (District) Council; a Tehsil Municipal Administration and Tehsil Council; a Town Municipal Administration and Town Council; and a Union Administration and Union Council.^{xliii}

The Political head of the Local Government at all these levels is the *Nazim* who, depending upon which Council he heads, is called the *Zila Nazim*, *Tehsil Nazim*, *Town Nazim*, and the *Union Nazim*.^{xliv}

A *Zila Council* consists of all Union Nazims in the Districts, such number of women as to represent thirty - three percent of the total number of Unions in the District; such number of peasants and workers as to represent five percent of the total number of Unions in the District, subject to

a minimum of one seat; and such number of persons from the minority communities as to represent five percent of the total number of Unions in the District, subject to a minimum of one seat.^{xlv}

The functions and powers of the Zila Council are comprehensive, chief among them being the imposition of taxes, the approval of the long term and short term development plans, annual and supplementary budgetary proposals.^{xlvi}

The Tehsil Council in a Tehsil and Town Council in a town of a City District consists of Naib (Deputy) Nazims of all Union Councils in the Tehsil or Town and representatives of women, peasants, workers, and minority communities on the same basis as for the Zila Council.^{xlvii}

The functions of these Councils are similar to those of the Zila Councils within their jurisdictions with only slight variations necessitated by their specific circumstances.

A Union Council consists of twenty – one members elected directly on the basis of adult franchise by voters within a Union. These seats are distributed as follows – (a) twelve Muslim members, elected to general seats, including four reserved for women; (b) six members, elected to seats reserved for peasants and workers, including two reserved for women; (c) one member elected to a seat reserved for minority communities; and (d) Union Nazim and Naib Union Nazim elected as joint candidates.^{xlviii}

The functions of the Union Council are comprehensive, the more important ones being the approval of the annual development plan and budgetary proposals, rates and fees for services, formation of Citizen Community Boards, Village and Neighborhood Councils, Co – operatives, mobilizing community involvement in maintenance of development works and infrastructure.^{xlix}

Members of a Union Council, including the Nazim and Naib Nazim,

are elected on the basis of adult franchise and separate electorate. The Electoral College for the election of Zila Nazim and Naib Zila Nazim, and reserved seats of women, peasants and workers, and minorities in the Zila Council are all the members of Union Councils in the District including Union Nazims and Naib Union Nazims. The electoral college for the election of a Tehsil Nazim, Town Nazim, Tehsil Naib Nazim, Town Naib Nazim and reserved seats of women, peasants and workers, and minorities in the Tehsil Council and Town Council are all the members of the Union Councils in the Tehsil or, as the case may be, Town; including Union Nazims and Naib Union Nazims.ⁱ

The electoral ward for the election of a Zila Nazim and Naib Zila Nazim is a District; for a Tehsil Nazim and Naib Tehsil Nazim, a Tehsil; for a Town Nazim and Naib Town Nazim, a Town, and for a Union Nazim and Naib Union Nazim, a Union. The Union is a multi-member ward for election of members of a Union Council.ⁱⁱ Local Government elections are held on a non-party basis.ⁱⁱⁱ

In each Union a Musalihat Anjuman (Conciliation Group) is constitutedⁱⁱⁱⁱ consisting of three Members for the amicable settlement of disputes, whether of Civil or Criminal nature, among the people through mediation, conciliation and arbitration.^{lv} Courts may also refer cases to these conciliation groups for settlement.^{lv}

The Zila Nazim on the administrative side is assisted by the District Co-ordination Officer.^{lvi} The DCO is appointed by the Provincial Government and is a senior Civil Servant (BPS - 20) of the Federation or Province. He is the senior most officer in the District and is the Co-ordination head of the District Administration and also the Principal Accounting Officer responsible to the Public Accounts Committee of the Provincial Assembly.^{lvii} Under the DCO there are a number of Executive District Officers each in charge of a subject-specific department of the Provincial

Government whose functioning has been decentralized to the District level.^{lviii} The District Police Officer, who is in charge of Police Administration in the District, comes directly under the Zila Nazim for law and order and consequently does not report to the DCO.

The Zila Nazim can resign from office^{lix} or he can be externally recalled by the Chief Executive of the Province through moving a motion in the Provincial Assembly stating grounds for the recall. The recall is effective only if it is approved by a simple majority of the Provincial Assembly.^{lx} He can be internally recalled by a motion in the Zila Council on approval by a simple majority of its members ratified by a simple majority of the total number of members of the Union Councils of the District.^{lxi}

Without prejudice to the provisions contained in the Punjab Office of the Ombudsman Act, 1997 every district is to have a Zila Mohtasib (Ombudsman) for redress of Citizens' complaints against mal-administration of the holders of the public offices in the local governments within the district. The holders of public offices include all functionaries of the district government, Nazims and Naib Nazims, District Police Officers and Officials, members and officials of the councils.^{lxii} This provision has not yet been given effect to.

For every level of local government (District, Tehsil, Town and Union) a Local Fund has been established into which is credited all monies internally generated and received from the Provincial Government. A Provincial Account is also maintained at every level except the union.^{lxiii}

While it is yet too early to venture a definitive judgment on the functioning of the Local Government system in the context of improved delivery of services, as it has only been in existence since 14th August 2001, it has certainly afforded an opportunity to the masses, for the first time on such a large scale, for institutionalized democracy at the grass-roots and consequential control over policy, administration and the bureaucracy. As

was expected, a number of teething problems, essentially related to implementation of the changed administrative procedures and relationships with the Nazims of the Civil Servants, have surfaced which are being attended to and have begun to settle down.

The Wafaqi Mohtasib

Establishment, Powers and Functions

Establishment of Office

In 1983 the Office of the Wafaqi Mohtasib, the meaning of which is 'Federal Ombudsman' was established through a Presidential Order^{lxiv} as the subject falls within the purview of the Federal Legislative List.^{lxv} Although not specifically mentioned under any article of the Constitution of the Islamic Republic of Pakistan, 1973, the institution of the Wafaqi Mohtasib now has Constitutional protection in as much as the Order under which it was established, has been protected^{lxvi} under the Constitution and can only be amended in the manner provided for amendment of the Constitution.^{lxvii}

Objectives

The Order in question provides for the Mohtasib to diagnose, investigate, and rectify any injustice done to a person through mal - administration.^{lxviii} 'Mal - administration' is defined as -

"(i) a decision, process, recommendation, act of omission or commission which (a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is *bona fide* and for valid reasons; or (b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or (c) is based on irrelevant grounds; or (d) involves the exercise of powers or the failure or refusal to do so, for

corrupt or improper motives, such as, bribery, jobbery, favoritism, nepotism and administrative excesses; and (ii) neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities. ”^{lxxix}

Appointment and Removal

The Mohtasib is appointed by the President for a four year term. ^{lxx} He is independent of the Executive and all executive authorities throughout Pakistan are required to act in aid of him. ^{lxxi} To ensure his impartiality he is prohibited from holding of any office of profit in the service of Pakistan before the expiration of two years after his term of office nor is he eligible for election as a member of Parliament or a Provincial Assembly or any local body or for taking part in any political activity until a period of two years after his term of office has expired. ^{lxxii} Further more as a measure to support his independence the Mohtasib can be removed from office only by the President on the ground of misconduct or of being incapable of properly performing the duties of his office by reasons of physical or mental incapacity. The Mohtasib however can in this regard, if he deems fit, refute any charges and request an open public evidentiary hearing before the Supreme Judicial Council. ^{lxxiii}

Definition of Agency

The Mohtasib may undertake an investigation into any allegation of mal – administration on the part of any Agency or its Officers or Employees on a complaint by any aggrieved person or on a reference by the President, the National Assembly or on a motion of the Supreme Court or a High Court. He can also initiate an investigation of his own motion. ^{lxxiv} By an Agency is meant –

“a Ministry, Division, Department, Commission or office of the

Federal Government or statutory corporation or other institution established or controlled by the Federal Government but does not include the Supreme Court, the Supreme Judicial Council, the Federal Shariat Court or a High Court. ^{lxxv}

Restrictions on Investigative Powers

However certain restrictions have been imposed on the investigative powers of the Mohtasib. He does not have any jurisdiction to investigate or inquire into any matters which -

“(a) are *sub - judice* before a court of competent jurisdiction or tribunal or board in Pakistan on the date of the receipt of a complaint, reference or motion by him; or (b) relate to external affairs of Pakistan or the relations or dealing of Pakistan with any foreign state or government; or (c) relate to, or are connected with the defence of Pakistan or any part thereof, the military, naval and air forces of Pakistan, or the matters covered by the laws relating to those forces. ^{lxxvi}

Ouster of Jurisdiction

The President is empowered to exclude specified matters, public functionaries or any Agency from the operation and purview of all or any of the provisions of the Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, 1983. ^{lxxvii} As a consequence the Federally Administered Tribal Areas or any matter relating thereto, or connected directly with them, was excluded from the purview of all the provisions of the Order. ^{lxxviii}

Undertaking of Studies

For carrying out the objectives of his Office, and in particular for ascertaining the root causes of corrupt practices and injustice, the Mohtasib

can arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.^{lxxxix}

Findings and Recommendations

If the Mohtasib, during the course of an investigation into a case, is of the opinion that the matter considered amounts to mal – administration, he is required to communicate his findings to the Agency concerned –

“(a) to consider the matter further; (b) to modify or cancel the decision, process, recommendation, act or omission; (c) to explain more carefully the act or decision in question; (d) to take disciplinary action against any public servant of any Agency under the relevant law applicable to him; (e) to dispose of the matter or case within a specified time; (f) to take action on his findings and recommendations to improve the working and efficiency of the Agency within a specified time; or (g) to take any other step specified by the Mohtasib.”^{lxxx}

Defiance of Recommendations

The Agency on its part is required to inform the Mohtasib about the action taken on his recommendations or the reasons for not complying with them.^{lxxxi} If, however, the Agency does not comply with the recommendations of the Mohtasib and nor gives reasons to his satisfaction for non – compliance, the lapse is to be treated as ‘defiance of recommendations’,^{lxxxii} in which case the Mohtasib may refer the matter to the President who may, in his discretion, direct the Agency to implement the recommendation.^{lxxxiii} The Mohtasib also has powers to recommend the taking of appropriate corrective or disciplinary action or both against any person found guilty of mal – administration. In such cases the Agency is required to inform the Mohtasib within thirty days of the receipt of the reference of the action taken. If no information in this regard is received, the matter

can be brought to the notice of the President for such action as he may deem fit. ^{lxxxiv}

Informal Resolution of Grievances

The Mohtasib is also empowered to – ^{lxxxv}

“... informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the necessity of docketing any complaint or issuing any official notice.”

Representation to the President

Any person aggrieved by a decision or order of the Mohtasib may, within thirty days of the decision or order, make a representation to the President, who may pass order thereon as he may deem fit. ^{lxxxvi}

Bar of Jurisdiction

No court or other authority has jurisdiction to question the validity of any action taken by the Ombudsman or to grant an injunction or stay against any proceedings before him. ^{lxxxvii} However, the writ jurisdiction of the High Courts under Article 199 of the Constitution has been occasionally invoked.

Annual Report

The Mohtasib is required to submit an Annual Report on the outgoing calendar year by 31st March of the following year. ^{lxxxviii}

Powers of the Mohtasib

The Mohtasib has, for the purposes of the functioning of his office, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters –

“(a) summoning and enforcing the attendance of any person and examining him on oath; (b) compelling the production of documents; (c) receiving evidence on affidavits; and (d) issuing commission for the examination of witness.”^{lxxxix}

Similarly he, or any member of his staff authorized in this behalf, has the powers to enter and search any premises for the purpose of making any inspection or investigation into the subject matter of any complaint before him.^{xc} He has also been empowered with the same powers as the Supreme Court to punish any person for contempt who –

“(a) abuses, interferes with, impedes, imperils, or obstructs the process of the Mohtasib in any way or disobeys any order of the Mohtasib; (b) scandalizes the Mohtasib or otherwise does anything which tends to bring the Mohtasib, his staff or nominees or any person authorized by the Mohtasib in relation to his office, into hatred, ridicule or contempt; (c) does anything which tends to prejudice the determination of a matter pending before the Mohtasib; or (d) does any other thing which, by any other law, constitutes contempt of court.”

Appointment of Staff

With regard to the appointment of his staff, Mohtasib has the powers to appoint advisers, consultant, fellows, bailiffs, interns, commissioners and experts or ministerial staff to assist him in the discharge of his duties^{xcii} and fix their remuneration.^{xciii} This of course is subject to the provisions of the budget for the office which is approved by the National Assembly as part of the Budget of Pakistan. The Budget of the Mohtasib's Secretariat for the current financial year, i. e. 2001—2002 (July – June) is Rs. 6.99 million or US \$ 1.16 million at the current conversion rate.

The Mohtasib, the employees officers and all other staff of the office are deemed to be public servants within the meaning of section 21 of the

Establishment of Regional Offices

For the convenience of the public, Regional Offices of the Ombudsman's Secretariat have been established at each Provincial Head-quarter i.e. Lahore, Karachi, Peshawar and Quetta for the Provinces of Punjab, Sindh, NWFP and Balochistan respectively. Furthermore offices have also been established in some of the other major towns i.e. Sukkur (Sindh), Multan and Faisalabad (Punjab).

Time – frame of Disposal of Cases

The process of complaints to the Wafaqi Mohtasib involves no cost as such to the complainant and the disposal of cases is expeditious in as much as most cases are required to be decided within a period of three months. The complicated ones, however, involving issues of interpretation of law and rules and the observance of the full procedure prescribed for the processing of such cases, may take upto a year. The percentage of cases going beyond a year are marginal.

Implementation of Recommendations

The implementation of the recommendations in each case, if not represented against, is required to be undertaken within the specific period indicated in the findings and recommendations of each case. While some of these get to be implemented within the indicated time – frame, by far the largest number remain un – attended to by the Agencies until 'implementation petitions' are put in by the concerned complainants with the Secretariat and consequential pressure for implementation is exercised on the Agencies.

Provincial Ombudsman Offices

Since matters relating to the discharge of functions by Provincial Government Departments and complaints of aggrieved citizens arising therefrom, are not within the purview of the scope of operations of the Wafaqi Mohtasib, the Provinces have catered for the establishment of Office of their own specific Ombudsman. The first to do so was the Province of Sindh which established the office of Provincial Ombudsman in 1991 through the *Establishment of the Office of Ombudsman for Province of Sindh Act*, 1991. The Government of the Punjab followed suit in 1996 through an Ordinance called the *Punjab Office of the Ombudsman Ordinance*, 1996. In 2001, the Balochistan Government established the Office of the Provincial Ombudsman through the *Establishment of the Office of Ombudsman for the Province of Balochistan Ordinance*, 2001.

The basic laws establishing the offices of the Ombudsman in the Provinces have been patterned on the law relating to the Federal Ombudsman in all essential matters with the role of the President being assigned to the Governor of each Province.

Federal Tax Ombudsman

On August 11, 2000 the office of the Federal Tax Ombudsman was created through the Establishment of the Office of *Federal Tax Ombudsman Ordinance*, 2000, to provide for the diagnosis, investigation, redress and rectification of any injustice done to a person through mal – administration by functionaries administering tax laws. Except that the scope of its operations extends to mal – administration only in the administration of tax laws, the remaining basic provisions of the law are similar to those of the *Presidents Order No.1 of 1983* under which the Office of the Wafaqi Mohtasib (Ombudsman) has been established.

Evaluation of the Functioning of Ombudsman Offices in Pakistan

Wafaqi Mohtasib or Federal Ombudsman

An evaluation of the functioning of the Office of the Federal Ombudsman in the context of improvement of Public Administration can be undertaken in a variety of contexts. Here, however, the framework of analysis adopted is focused essentially on (i) the nature and extent of redress of individual grievances against mal – administration of the Agencies of the Federal Government; (ii) contribution to the evolution of Administrative Law through interpretation of laws, rules and regulations in the context of recording findings and recommendations in complaints of individuals against mal – administration; (iii) specific directions to Agencies for change of laws and amendments in rules and regulations to meet the needs of equity and justice; and (iv) specific recommendations to the Agencies for changes in administrative structure, procedures and mode of performance of functions to keep pace with the requirements of a fast changing administrative environment. These recommendations are invariably the outcome of subject and organization – specific studies.

In so far as (i) is concerned the office of the Federal Ombudsman has achieved a remarkable success. The total number of complaints received since inception and till 31st December 2001 were 735,791 of which 407,252 (55%) were disposed of after initial examination on account of – (i) no mal – administration being involved; being ‘Service’ matters and excluded from the jurisdictional purview of the Ombudsman; being anonymous/pseudonymous; being ‘sub – judice’ and, therefore, beyond jurisdiction. Of the balance 328,539 (45%) relief was provided to 246,743 (80%) whereas 63,029 or 20% were rejected bringing the total

disposal to 309,772 (94%). The carry over of pending cases from the calendar year 2001 is 19,286 or 2.6% of the total (735,791).

The cost to the public exchequer for each decided case since the inception of the Office works out to Rs. 881 or US \$ 14 at the current conversion rate.

The cases disposed of on the basis of the nature of their alleged mal – administration are tabulated below –

Mal – Administration involved	Number	Percentage
Delay	68,150	22%
Inattention	37,173	12%
Neglect	12,391	4%
Inefficiency	6,195	2%
Bias	71,248	23%
Action Contrary to Law	9,293	3%
Corrupt Motives	3,098	1%
Administrative excess	12,387	4%
Discrimination	6,199	2%
Arbitrary Decisions	58,857	19%
Other causes	24,781	8%

With regard to item (ii) of the analytical framework, the statistical data have not been quantified. It is, however, understood that in quite a number of cases the interpretation of laws, rules and regulations given by the Mohtasib from time to time continue to serve as precedents and in their implementation by the Agencies they provide relief to the citizens. Similarly for item (iii) although a number of recommendations of the Mohtasib have been accepted and implemented by the Agencies thereby bringing about an overall improvement in the delivery of services by public sector organizations, no definitive quantification of the data has been attempted. However, an indicative list is at Annex – I.

As to item (iv) of the analytical framework, again a number of studies have been undertaken and recommendations relating to structural

changes, and modification of procedures, of some public sector organizations have been recommended for adoption. Some of these have been taken up and implemented with consequential improvement being affected in the efficiency of delivery of services. An indicative list of such studies is at Annex – II.

It will be seen from the above analysis that the forte of the Mohtasib's functioning since inception has been the redress of individual grievances. Although this as it should be, greater emphasis now needs to be accorded to the other items of the analytical framework if the optimal impact of the Office in the context of improvement of public administration is to be felt.

Federal Tax Ombudsman

During the calendar year 2001, the first full year of its functioning, 1,782 cases were registered with the Federal Tax Ombudsman of which 1,339 or 75 percent were decided.^{xv} These cases related to complaints arising out of implementation of the following laws – (i) Income Tax 955 (ii) Customs 168 (iii) Sales Tax & Central Excise 112 (iv) Wealth Tax 14; and (v) 90 complaints were outside jurisdiction.^{xv}

During the process the following problems were identified and recommendations made to obviate them – (i) circumvention of prescribed office procedure (ii) half – hearted inspections (iii) improper maintenance of records (iv) delay or neglect in responding to taxpayers' applications or queries (v) delay in communicating decisions/orders (vi) delay in issuance of refunds (vii) defective accounting system.^{xvi}

Provincial Ombudsman

With regard to the evaluation of the functioning of the offices of the Provincial Ombudsman, their performance in respect of individual

grievances is tabulated below –

Name of the Institution	Disposal of Complaints
Ombudsman Sindh	63,379
Ombudsman Punjab	52,641
Ombudsman Balochistan	202
Total	116,222

As in the case of the Wafaqi Mohtasib, the primary focus of both the Federal Tax Ombudsman and the Provincial Ombudsman has been on the disposal of individual grievances. This, important as it is, needs to be supplemented on a larger scale than presently by recommending remedial action against the causes which lead to the complaints. While some of these become apparent during the course of hearing of complaints, the others would need to be ascertained through undertaking of subject and Agency – specific studies. On the basis of their findings, recommendations could be made with regard to changes in laws, rules and regulations, procedures and organizational structure of concerned public sector organizations.

Conclusions

The conclusions indicated in the ensuing paragraphs essentially relate to the Office of the Wafaqi Mohtasib. However, since the charters of the Offices of the other Ombudsman are patterned on that of the Wafaqi Mohtasib, they could also be held as applicable to them. From the analysis contained in the foregoing paragraphs it can be concluded that –

(i) the ‘Ombudsmanship’ process in Pakistan has had a positive impact on the improvement of public administration by – (a) the expeditious redress of grievances of citizens against mal – administration involving no cost to the complainant; (b) contribution to the evolution of Administrative Law through interpretation of laws, rules and regulations; (c)

specific directions to Agencies for change of laws and amendments in rules and regulations to meet the needs of equity and justice; (d) specific recommendations to the Agencies for changes in administrative structure, procedures and mode of performance of functions.

(ii) by far the most important aspect of the functioning of the Offices of the Ombudsman in Pakistan has been the redress of individual grievances against mal – administration. Without prejudice to this function, greater attention now needs to be given to the undertaking of studies for changes in administrative structure, procedures and mode of performance to keep pace with the requirements of the time so that greater efficiency and effectiveness can be brought about in the functioning of public sector organizations. This is particularly so in respect of the following organizations which, in the case of the Wafaqi Mohtasib, account for 86% of the complaints; Water and Power Division 58% ; Information Technology and Telecommunications Division 16% ; Finance Division 6% ; and Petroleum & Natural Resources Division 6% .Complaints against the concerned organizations of these Divisions and the relief provided are repetitive in nature implying very weak internal monitoring, supervision and control mechanisms which inevitably lead to a very frequent violation of rules, regulations and prescribed procedures which amount to mal – administration. The strengthening of these mechanisms is urgently required.

(iii) a systematic approach needs to be adopted for the effective monitoring of the process of implementation of the recommendations emanating from the Offices of the Ombudsman so that the recommendations in each case get to be implemented in the prescribed time frame of each without having to wait for ‘implementation petitions’ by concerned citizens;

(iv) since a provision for the establishment of an office of the District Ombudsman exists in the Local Government law, but without pre-ju-

dice to the functioning of the Provincial Ombudsman, the Provincial Governments should consider establishing a presence of the Provincial Ombudsman at each District Headquarter;

(v) the Provincial Government of the NWFP has not yet established the Office of a Provincial Ombudsman like the other Provinces and should consider doing so; and

(vi) despite the importance of the functioning of the Offices of the Ombudsman in the context of bringing about an improvement in public administration, to radically change the tone and tenor of this would require action on a much wider front. Unless a qualitative change in the personnel of public sector organizations is brought about both on the technical and moral plane, public administration will continue to suffer from major infirmities to the detriment of the citizens. Selection on merit; periodic updating of skills through in - service training; promotion on the basis of performance empirically assessed; insulation, to the extent possible, from the pulls and pressures exerted by the 'political process' for undue favours; and an adequate compensation structure, would go a long way in attracting talent to the public services and obviate some of the major ills afflicting public administration.

This problem has begun to be addressed in earnest.

Indicative List of Specific Directions to Agencies for Change of Laws, Amendments in Rules and Regulations

1. It was recommended to the University Grants Commission to have their law amended so as to include a substantive provision for grant of equivalence to certificate/diplomas/ degrees granted by various Institutions at home and abroad.

2. The Government of Pakistan in Ministries of Education, Health and Railways was advised to procure affiliation of their respective techni-

cal training institutes, which had been established through notifications/resolutions with recognized Universities/Boards so as to give legitimacy to degrees/diplomas/certificates being awarded by them to their graduates. The Government was also advised not to create such institutes in future without first arranging their affiliation with degree/diploma awarding Universities/ Boards.

3. In respect of pension matters following recommendations for change of rules/law were made to the Finance Division: -

- Unmarried daughters of deceased pensioners should continue to get family pension even after attaining the age of 21 years or till they are married.

Unmarried sister of a deceased pensioner without any other legal heir should continue to receive family pension of the deceased even after age of 21 years provided that she is still unmarried.

- A second Medical Board for the purposes of commutation of pension should be done away with.

- Widow of a pensioner should not be refused commutation of pension only because her deceased husband had not been able to sign Commutation Application before his death.

4. Pakistan Mineral Development Corporation was advised to amend their Corporation rule through which they had acquired powers to deduct from the pension of a retired officer of the Corporation an amount equal to the allowance/pension granted to him by the Benevolent Fund Organization as the latter was a grant under a Federal law.

5. Finance Division was advised not to limit the choice of the members of General Provident Fund to exercise their options for keeping an interest bearing or non - interest bearing account.

6. It was recommended to the Quaid - I - Azam University to allow at least two chances to the students of Msc./M.Phil., to qualify in the

failed semesters before declaring them as having finally failed in the respective programs .

7. Recommendation to the Federal Government to amend the Services Tribunal Act so as to provide jurisdiction over the employees (about 0.7 million) of Public Sector Corporations to facilitate the resolution of grievances relating to their service like the other employees of the Federal Government. The amendment has been carried out.

Indicative List of Research Studies Carried Out

- | | |
|--|------|
| 1. Housing Problems in Islamabad | 1984 |
| 2. Report on Enhancing Efficiency and Responsiveness of the Functioning of the Government Organizations – Control Mechanism and Interaction with the Public | 1984 |
| 3. National Savings Organization – Special Report | 1987 |
| 4. Report on Serious Accident to R C – 73 up Rail Car | 1994 |
| 5. Report on Banks/DFIs Loan scam since 1985 | 1994 |
| 6. Reports of the Task Force constituted to carry out studies on the functioning of the following organizations and recommend measures to help provide satisfactory services to the public and check instances of mal – administration . | 1999 |

- i. WAPDA & KESC
- ii. House Building Finance Corporation
- iii. Pakistan Telecommunication Company Limited
- iv. Office of the Auditor General of Pakistan
- v. Ministry of Railways
- vi. Sui Northern Gas Pipelines Limited
- vii. Sui Southern Gas Pipelines Limited
- viii. State Life Insurance Corporation

ix. Ministry of Housing & Works (Estate Office)

- i Article – 1 of the Constitution of the Islamic Republic of Pakistan, 1973.
- ii The Gazette of Pakistan, Election Commission of Pakistan, Notification No.F. 10(2)/2002 – SMW, dated 26th March 2002, pp 227—230.
- iii Population and Housing Census of Pakistan, 1998; Census Bulletin – I (Final Results) Table – I; Population Census Organisation, Statistics Division, Government of Pakistan, February, 2002
- iv Article 41 (3) *ibid*
- v Article 44 (1) *ibid*
- vi Article 48 (6) *ibid*
- vii Article 90 of the Constitution of the Islamic Republic of Pakistan 1973.
- viii Article 51 (1) *ibid*
- ix The Gazette of Pakistan, Election Commission of Pakistan, Notification No.F. 10 (2)/2002 – SMW, dated 26th March 2002, page 219.
- x Article 59 of the Constitution of the Islamic Republic of Pakistan.
- xi Article 91 *ibid*
- xii Article 91 (2) *ibid*
- xiii Article 92 (1) *ibid*
- xiv Article 175 *ibid*
- xv Article 142 *ibid*
- xvi Article 246 (c) *ibid*
- xvii Article 247 (3) *ibid*
- xviii Article 247 (7) *ibid*
- xix Rule 2 (6) of The Rules of Business, 1973.
- xx Rule 2 (ii) *ibid*
- xxi Rule 2 (xiv) *ibid*
- xxii Rule 2 (xiii) *ibid*
- xxiii Rule 2 (xviii) *ibid*
- xxiv Rule 4 (2) *ibid*
- xxv Schedule 1 *ibid*

- xxvi Article 101 (1) of the Constitution of the Islamic Republic of Pakistan.
- xxvii Article 101 (3) *ibid*
- xxviii Article 129 of the Constitution of the Islamic Republic of Pakistan, 1973.
- xxix The Gazette of Pakistan, Election Commission of Pakistan, Notification No. F.10 (2)/2002 – SMW, dated 26th March 2002, page 219.
- xxx Article 130 (1) *ibid*
- xxxi Article 130 (2) *ibid*
- xxxii Article 132 (1) *ibid*
- xxxiii Article 137 *ibid*
- xxxiv Government of the North – West Frontier Province, Rules of Business, 1985, rule 2(h).
- xxxv Rule 3 (3) *ibid*
- xxxvi Rule 4 (1) *ibid*
- xxxvii Rule 4 (2) *ibid*
- xxxviii Rule 9 (1) *ibid*
- xxxix Rule 14 (1) *ibid*
- xl Rule 21 (1) *ibid*
- xli Preamble to The Punjab Local Govt. Ordinance, 2001 (Punjab Ordinance No. xiii of 2001). Since Local Government falls within the domain of the Provincial Governments, each Provincial Government has promulgated an Ordinance of its own for the purpose. The basic provisions of these Ordinances are identical. For convenience of treatment, however, references in this paper are to the basic law of the Punjab.
- xlvi Section 5 *ibid*
- xlvii Section 2 (xvi) *ibid*
- xlviii Section 2 (xxiv) *ibid*
- xlix Section 37 *ibid*
- l Section 39 (b) (c) *ibid*
- li Section 65 (a) (b) (c) *ibid*
- lii Section 87 (a) (b) (c) (d) *ibid*
- liii Section 88 *ibid*
- liv Section 148 (1) (2) (3) *ibid*
- lv Section 151 *ibid*

- lii Section 153 *ibid*
- liii Section 102 *ibid*
- liv Section 103 *ibid*
- lv Section 104 *ibid*
- lvi Section 17 *ibid*
- lvii Section 28 *ibid*
- lviii Section 18 (o) *ibid*
- lix Section 21 *ibid*
- lx Section 23 *ibid*
- lxi Section 24 *ibid*
- lxii Section 134 *ibid*
- lxiii Section 107 *ibid*
- lxiv Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, 1983, President's Order No. 1 of 1983.
- lxv Fourth Schedule, Federal Legislative List, Part - 1, item - 13 of the Constitution of the Islamic Republic of Pakistan, 1973.
- lxvi Article 270 - A *ibid*
- lxvii Article 270 - A (6), *ibid*, read with entry number 5 of the Seventh Schedule, thereof.
- lxviii Preamble of the Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order, 1983, President's Order No. 1 of 1983.
- lxix Article 2 (2) *ibid*
- lxx Article 4 *ibid*
- lxxi Article 3 (3) *ibid*
- lxxii Article 5 *ibid*
- lxxiii Article 6 *ibid*
- lxxiv Article 9 (1) *ibid*
- lxxv Article 2 (1) *ibid*
- lxxvi Article 9 *ibid*
- lxxvii Article 31 *ibid*
- lxxviii Notification No. 57/104(15)/ML - IB/CMLA dated 13th August, 1984.
- lxxix Article (9) (3) *ibid*

- lxxx Article 11 (1) ibid
- lxxxi Article 11 (3) ibid
- lxxxii Article 11 (5) ibid
- lxxxiii Article 12 (1) ibid
- lxxxiv Article 13 ibid
- lxxxv Article 33 ibid
- lxxxvi Article 32 ibid
- lxxxvii Article 29 ibid
- lxxxviii Article 28 ibid
- lxxxix Article 14 ibid
- xc Article 15 ibid
- xci Article 20 ibid
- xcii Article 26 ibid
- xciii Article 27 ibid
- xciv Federal Tax Ombudsman Annual Report for the year 2001, Annex – I.
- xcv ibid, Annex – II.
- xcvi ibid, Annex – III.

Ombudsman and Civilian Oversight

By Saleem Akhtar

Abstract: Post World War II era has changed the governance of country with emphasis on human right and rule of law. This led to birth of new agencies and increase of bureaucratic power. For protection of citizen an independent outside agency was needed. Thus Ombudsman was created. This system protects human rights and should be independent of the organization it oversees. It provides accountability transparency and gives relief against mal-administration. It is not adversarial to administration but diagnoses irritants and provides relief to individual and recommends systemic reform, which is essential for a vibrant and transparent administrative system. Civilian oversight mechanism is, being adopted world over and even in international agreements to oversee implementation. It encourages democratic process and stake holder's participation. This system can succeed if awareness is created and implementation is ensured by law as in the case of Federal Tax Ombudsman of Pakistan. Similar law should be adopted in every country to strengthen this system.

Post World War II era has seen vast changes in the governance of country and statecraft. Besides growth of democracy emphasis has been on rule of law, human rights and welfare state. This led to extended sphere of the government, and birth of new agencies and departments. The influence and power of the bureaucracy increased to this extent that concern was shown to create balance between administrative actions and citizen's

* Federal Tax Ombudsman, Pakistan.

rights. In this situation additional protection was needed to public against executive and administrative mistakes, excesses and abuse of power. Although there exist machinery like court, Tribunals and administrative agencies, considering the trails, tribulations, complaints and grievances such machineries seemed inadequate and therefore in order to provide much needed additional protection a supplementary institution was created. And that institution was none else but "THE OMBUDSMAN". The "Ombudsman system is one of the institutions essential to a society under the Rule of Law, a society in which fundamental rights and human dignities are respected. The Ombudsman system is one of the remedies which seek to preserve human rights"⁽¹⁾.

With such heavy responsibilities to oversee the civil bureaucracy, the Ombudsman must be independent, impartial, fair, adopt a credible procedure, maintain confidentiality, easily accessible to complainants and must ensure implementation of recommendations. He must be independent of the organizations he oversees or reviews, appointment be made only of a person with unblemished and unimpeachable high integrity, having vast knowledge and varied experience, well aware of principles of law possessing ability to take a balanced view of conflicting situations and is widely respected among different groups as impartial and fair. According to the American Bar Association "the Ombudsman gives the citizens an expert and impartial agent without personal cost to the complainant, without time delay, without the tension of adversary litigation and without requirement of counsel or the intervention of those high placed". The Ombudsman's goals are to safeguard the rights of persons and promote higher standard of competency, efficiency and justice in the administration of government and Laws⁽²⁾.

↳ The institution of Ombudsman introduces, accountability transparency and provides relief in individual cases. But to eradicate evils in the ad-

ministration which cause complaints, dis-satisfaction and public outcry one has to address to reforms in the system. Unless a system is made accountable it becomes a breeding ground for corruption and abuse of power. In this direction success has been achieved where systems have been reformed, improved or changed. But the bureaucracy wants status quo, not only resents any systemic improvement and reform but opposes it for the simple reasons that they prefer "control and power and avoid being accountable and thus end up retaining systems that are vulnerable to corruption"⁽³⁾.

The bureaucracy is strong and powerful but they should be made to realize that Ombudsman is not their adversary and is an external agency to oversee the mal-administration, malfunctioning, and malpractices which the officials by sheer force of continuation consider and let others believe to be proper, just and according to law. Being an external agency, the Ombudsman objectively considers alleged mal-administration in the light of the complaints or results of studies made. He first pinpoints the irritants and illegalities then recommends steps to reduce and eliminate them and thus brings systemic improvement for the welfare of the public. No doubt in this process relief to individuals is also provided. Where is the conflict and clash? Will not such oversight improve the governance, bring accountability and transparency in the system? But the fact remains that reforms have always been opposed and history bears witness that all Prophets and reformers who pleaded for change and reform in the system did create enemies and faced severe opposition. The Government and their bureaucracy must understand that civil oversight by the Ombudsman acts as a buffer between them and public protest. He acts as a bridge to usher new avenues, provide grounds for resolving complaints arising from mal-administration and abuse of power.]

The role of Ombudsman is not confrontational, adversarial obstruc-

tionist or a troublemaker. Nor is it the policy to annihilate or completely change any system and machinery of administration. He may not only play the role of trouble shooter to diagnose, investigate but to pinpoint the maladies, short comings, inherent problems and malpractices which have developed unnoticed over a period of time and have afflicted the system making it stale, riddled with corruption and mal-administration and provide remedy. This type of intervention, which results in progress and growth of clean and beneficial administrative system, must not be looked with suspicion or mistrust⁽⁴⁾. Administration can be improved so long administrators are prepared to constantly remodel themselves and are prepared to mould themselves according to needs and calls of emerging social demands.

Civilian oversight mechanism is being developed and accepted world over and finding support from international community. The creation of European Union Ombudsman is a living example who acts side by side with the national Ombudsman of European Union countries. There are instances where international agreements and conventions are introducing/inducting Ombudsman to oversee proper implementation by ironing out differences disputes and discords. In this way depending upon the circumstances and nature of mal-administration and dispute Civilian Oversight mechanism at times, may work as an administrative adjudicatory machinery as well. The Civilian Oversight machinery provides participation of people and stakeholder in reforming the administrative system and redressing grievances. It thus becomes a part of democratic process in building a transparent and accountable system and society. In my experience, to make oversight mechanism a success and result oriented two focal points be kept in view: (i) Awareness be created about the institution and (ii) To ensure implementation of recommendations. Civilian oversight mechanism can be effective and successful if its recommendations are fully implemented.

In the case of my institution the law has mandated that the Tax officials shall implement the recommendations of the Federal Tax Ombudsman⁽⁵⁾. Similar law should be adopted in every country. I have observed that in tax matters revenge action by tax officials against the complainants is a great deterrent in approaching the Ombudsman. This aspect has been observed internationally and suggestions have been made to prohibit reprisal and afford protection to complainants and witnesses against such action. The administrative and tax culture in most of the Asian countries needs such legislation to make Ombudsman's Civilian Oversight effective and result oriented.

A serious argument advanced against Ombudsman Civilian Oversight is that in the face of Courts having power to judicially review administrative actions there is no need for such mechanism. Much can be said on the subject but the experience has proved that although Court's judicial review is effective it can grant relief according to law but so far systematic reform in the system is concerned that may not be achieved in an effective manner. Further in this part of the world approach to the Courts is sufficiently expensive and time consuming which does not suit a common man to knock at its door every time.]

In Pakistan the Ombudsman has a unique position as the law provides that he can settle disputes through conciliation and mediation and redress the grievances by employing informal dispute resolution procedure⁽⁶⁾. In tax matters I have adopted this mechanism in many cases with successful results and without any loss of time and expense.

I will now revert to Pakistan experience where institution of Ombudsman has been established for the last about two decades. Its development is phenomenon and can match with such institution in developed countries. Besides Wafaqi Mohtasib (Federal Ombudsman) and Provincial Ombudsman, specialist Ombudsman has also been appointed for important

sector of administration like Revenue and Taxation while that of Banking and Insurance are on the anvil. In August 2000 the institution of Federal Tax Ombudsman⁽⁷⁾ was established to oversee mal-administration by tax employees. During a period of one and a half years 2120 complaints were received out of which 1705 have been decided and relief has been provided in more than 80% cases which include recommendations for systemic reform, development and updating the outmoded system of tax credit and accountability, training of Tax administrators and personal complaints of mal-administration corruption and administrative excesses. In my institution 87% of the recommendations have been implemented which is a matter of great pride for any institution much less an institution of civilian oversight. Besides this Wafaqi Mohtasib⁽⁸⁾ and Provincial Ombudsman with overall general jurisdiction on most of the government departments have made admirable performance in redressing the grievances of public which otherwise would have lingered for years to see the light. We are proud of the performance of Pakistan Ombudsmen.

May I take this opportunity to suggest certain steps to be taken by this Association to develop professionalism, co - operation, and uniformity amongst the members:

A Committee should be formed to

- (i) draft Code of good Administrative Behaviour.
- (ii) draft Ombudsman's Code of ethics.
- (iii) draft Citizens Charter of Rights.
- (iv) draft Model Ombudsman Law.

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Ombudsman and the Integrity of Government

By Haziqul Khairi*

Mr. Chairman, Fellow Delegates, Organisers of Asian Ombudsmen Conference, Government of People's Republic of China, Ladies & Gentlemen:

The topic under discussion is of utmost importance to the institution of Ombudsman itself and to the Asian Countries, most of whom came out of the yoke of colonial rule after the Second World War. Known in common parlance as the 'poorman' Court, this institution steadily grew in Asian countries and provides relief to the teeming millions, non-privileged and under-privileged, who can not bear cumbersome judicial procedures, expensive and prolonged litigation against excesses of the Government. In the present socio-economic system, the common man is more and more dependent on the Ombudsman for speedy redressal of his grievances. Placed advantageously, the Ombudsman is externally independent of the administrative mainstream, operationally autonomous, and functionally free from the ubiquitous red-tape. He finds himself capable of addressing many areas left untouched by the traditional bureaucrat and is in a position to employ devices, ways and means to check where-ever and whenever administrative abuses lead to violation of citizen's rights or bureaucratic wranglings aimed at material benefits to unscrupulous officials.

In Pakistan, the law relating to the institution of Ombudsman is al-

* Ombudsman Sindh of Pakistan.

most the same both at Federal and Provincial level except that they exercise their respective jurisdictions over subjects allocated to them under the constitution. Whereas Power & Gas, Tele-communication, Banks and Insurance, Income Tax & Customs fall within the jurisdiction of Federal/Tax Ombudsman, Public Health, Education, Police, Local Bodies, Revenue, Housing, Water, Sewerage etc. come under the domain of Provincial Ombudsman with which I as Provincial Ombudsman Sindh, have been dealing with for the past 2 years. Apart from individual grievances, the Ombudsman may take suo-motu notice in matters of public importance. The President, the Governor, the Supreme Court, and the High Courts, National and Provincial assemblies may also refer for investigation any allegation of mal-administration against any agency or its officers. One such case was with regard to mal-administration involved in the matter of shifting of Karachi Fruit & Vegetable Market from its old site in the city to its new site in the outskirts of the city, which was referred to me by the Supreme Court of Pakistan. This was made possible within a few months of my decision despite resistance from known mafias operating there. With the shifting, the old site in the heart of the city will now be used as a Public Park, whereas the new site on 100 acres shall be amongst one of the largest Fruit & Vegetable Market in Asia. Similarly on the orders of Ombudsman Sindh (Pakistan) encroachment of Police Stations on a number of public lands was removed including one under construction in a Women & Children Park. In the same way, on his recommendation criminal cases against the officials were initiated and disciplinary action was taken against them which were applauded by the Press and the Public, and propelled the integrity and credibility of the Government to higher levels.

An Ombudsman in Pakistan has power to enter and search any premises and among others to impound or seal any article, books of accounts and documents etc. He has the power to punish the guilty for his

contempt. He may refer for action to the President/Governor in case of defiance of any of his recommendations by the concerned Government Agency or any of its officers. Besides, Ombudsman may also constitute Inspection Teams or establish Standing or Advisory Committees for performing such functions as he may deem proper in the circumstances. He may hold Seminars and Conferences on matters of national importance and invite specialists in the field to advise the Government.

However it may be urged here that the starting point for integrity of the Government vis-vis Ombudsman, would be the very integrity of the Ombudsman himself. He is supposed to be a man of unimpeachable character, an embodiment of Peoples' conscience and a torch-bearer of administrative justice. The integrity of the Government calls for his high character which in turn would provide impetus to good governance. A political appointee devoid of such qualities would rather add to mal-administration in the Government and justify any of its actions. As to how he is appointed and when he can be removed are matters which have direct nexus with the integrity of the Government. To cite a few examples, in China the Ombudsman known as minister for Supervision is nominated by the Premier and appointed by the State President with the approval of National Peoples Congress. In Philippines he is known as ANOD-BAYAN, i. e. the protector of the people, and is appointed by the President by Selection from a list of six nominees prepared by the Higher Judiciary and Bar Council for a term of seven years with no provision of extension or re-employment. The Norwegian Ombudsman has to be a Judge of the Supreme Court. Similarly the British Parliamentary Commissioner exercising the powers of Ombudsman is appointed by the Crown on the advice of the Government in consultation with the Chairman of the House of Commons & Selection Committee.

In the matter of removal of Ombudsman, the British Ombudsman, namely the British Parliamentary Commissioner can only be removed in

consequence of the resolutions of both the houses of Parliament. In Pakistan the Ombudsman apart from mental and physical incapacity can also be removed by the President or Governor on the ground of misconduct in which case the Ombudsman may while refuting the charges request for open public evidentiary hearing before the Supreme Judicial Council consisting of the Chief Justice of Pakistan, the two next most senior judges of the Supreme Court and the two most Senior Chief Justices of High Courts.

Mr. Chairman, last but not the least, it may be urged before this august house that the recommendations made by the Ombudsman should not be treated as directory but mandatory with least interference by any of the organs of the state, paving the way for good governance, rule of law and administrative justice.

Thank you.

Ombudsman and the Integrity of Government

By Margarito P. Gervacio, JR. *

Introduction

Corruption has been with us since the birth of government. It appears to be a universal malady that permeates the modern world in varying extent and intensity. Indeed, no country is spared from the scourge known as graft and corruption. This malady has undeniably rotten the system of governance and primarily eroding the integrity of public service. At the height of public venalities, the Philippines has lost P1.2 *trillion* to corrupt public servants. This accounts for billions of pesos more than the country's foreign debt. This would have been a large amount for more government development projects and basic services for every Filipino's future.

But what is important, at least from the Philippines' point of view, is how the Filipinos stand up and fight this scourge. What matters is the national will to combat graft and corruption and minimize it to realize a clear, honest and efficient bureaucracy. History will speak for itself. The People Power I of 1986 and People Power II of 2001 ousted two(2) sitting Presidents for graft and corruption.

Ombudsmen in the Asian region draw heavily from their Scandinavian model. While specific positions for each country differ, the foundation upon which the offices were instituted remains the same. This is purposely to ensure that government and its agents serve the people, protecting the

* Overall Deputy Ombudsman of the Philippines.

latter from bureaucratic excesses and inefficiencies.

Advocating Public Accountability

The idea of public accountability is most probably as old as the concept of organized government. But what is public accountability? The policy of the Philippine Government is clearly spelled out in its fundamental law. Thus, “(*T*) he State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.” (Section 28, Article II, 1987 Constitution) This policy is fleshed out in the basic principle that *public office is a public trust*. In line with this, public officials and employees are mandated by no less than this fundamental law to serve the people with “*utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice and lead modest lives.*” (Section 1, Article XI, *id.*)

Public accountability, therefore, is the root of integrity in public service. It is viewing public office as both a duty and a position of great importance, a right, an authority as well as a duty provided by law. A person holding public office is in fact invested with some sovereign functions of the government to be exercised for the public good. The enforcement of public accountability has its roots in antiquity where almost all well-meaning government administrations faced it as a challenge.

The Philippine Ombudsman as a constitutional institution follows the same mold. The *raison d’être* for its creation is the need for a “Protector of the People” while the Philippine Constitution aptly labels it. Thus, it is mandated to be a: (i) *watchdog* to oversee the general and specific performance of official functions to the end that the laws are properly administered; (ii) *mobilizer* to ensure the steady and efficient delivery of public service; (iii) *critic* to evaluate existing systems of procedure and practices in the government with a view to initiating refinements therein; (iv) *dis-*

penser of justice to impose administrative sanctions on erring government officials and employees, and prosecuting the latter along with private citizens found to have conspired with them for any penal violations; (V) *an equalizer* to seek and maintain an equilibrium between political power and rights of the citizenry .

Philippine history has proven the need for an Ombudsman . Recent events in the country have highlighted its relevancy . On January 20 , 2001 , an incumbent president facing various charges , including plunder , bribery and graft and corruption , resigned upon the incessant demand of the Filipino people . Together with his known associates , the Ombudsman investigation the plethora of charges against the erstwhile holder of the highest office .

Withstanding the barrage of pressures from almost all sectors of society was a litmus test for the Ombudsman , who was tasked to remain independent irrespective of the personalities involved in the investigation and the popular clamor to immediately file criminal cases . In fact , from this experience , the Philippines Ombudsman ' s Office was able to distill and confirm certain principles essential and relevant to its role as a vital democratic institution .

Independence : Bench Hallmark of an Ombudsman

A hornbook for any investigator , prosecutor or judge is to remain impartial and independent in arriving at a conclusion after all the facts are laid down before him . The oft-quoted phrase ' *without fear or favor* ' significantly applies to the functions of the Ombudsman , especially in the dispensation of justice . Metaphorically , the Ombudsman recognizes that the blindfolded mistress of the law must not be swayed by considerations than what is just and lawful , weighing the evidence proffered by the disputants .

The Ombudsman and his deputies , prosecutors and lawyer-investiga-

tors are all members of the Bar. In other words, they recognize the majesty of the law and the need for the rule of law in order to maintain the time-cherished principle that public office is a public trust. Likewise, they are well aware of the technical aspects of evidence gathering and the rules governing investigation and prosecution of cases. Fully aware that any mishandled case may be a ground for the revocation of their authority to practice law, which may likewise be a cause for a criminal, administrative or civil case, the members of the Ombudsman's Office do not tolerate interferences in the discharge of their functions.

Foreseeing the need for autonomy from restraints which can affect the Office of the Ombudsman from functioning effectively and efficiently, this functional independence was given a needed boost by providing institutional safeguards. The framers of the Philippine Constitution declared it to be an independent office, pegging the terms of the head and deputies of said office to seven (7) years; insulated the Ombudsman and his deputies from the political process of appointment and made the Ombudsman removable by impeachment; ensured the office's fiscal autonomy; and provided flexibility by giving it rulemaking powers.

Of particular significance is the reduction of politics in the appointment of the Ombudsman and his deputies. As in most Asian countries, political patronage has always been a perennial problem. Appointments to key government positions are but the result of certain political maneuverings and concessions such that the legislature's Commission on Appointments confirms appointments of the heads of executive departments. The Ombudsman and his deputies are spared from this political process, as their appointments do not need confirmation but the scrutiny of learned men and women from the judiciary, the academe, the government and the private sector who compose the Judicial and Bar Council to nominate the top officials of the Office.

The Philippine legislature added teeth by endowing the Office with *subpoena* and contempt powers and authorizing it to examine and have access to bank accounts and records. At the same time, it limited judicial intervention by prohibiting any court, other than the Supreme Court, from issuing any writ of injunction to delay any investigation being conducted by the Ombudsman. It even clothed the Ombudsman with full authority to organize the structure of the Office, a clear index of operational autonomy.

In the cases against the a former Philippine president, the latter impliedly recognized the independence of the Ombudsman when he impugned the validity of the Ombudsman's actions before the Supreme Court, and not before any lower court. To the credit of the magistrates, the Ombudsman's actions were sustained and effectively his independence was underscored.

Indeed, there are adequate safeguards to assure the public that the independence of the Ombudsman, in both its functional and institutional sense, is and will not be compromised by considerations outside of the law and the evidence adduced before his Office.

The Ombudsman as Lead Enforcer of Public Accountability

One unique feature of the Philippine laws on graft and corruption is its stringent requirements on public officials and employees. Penalties, criminal, administrative and civil, are imposed against erring bureaucrats. It must be observed that under the present state of the Philippine legal system, the Ombudsman is the key implementor of these laws, being empowered by no less the 1987 Constitution.

Presidential Decree No. 1606 (*as amended by P. D. 1629; B. P. 129, P. D. 1861, E. O. 101, E. O. 184, R. A. 7975 and R. A. 8249*) created the special anti-graft collegiate court known as the *Sandigan-*

bayan. Presently, it continues to function and exercise its jurisdiction as the Philippine special anti-graft court (Section 4, Article XI, 1987 Constitution). Under the latest amendatory act, R. A. 9249, it has exclusive original jurisdiction over criminal cases committed in relation to office involving high-ranking officials, such as, public officers occupying positions corresponding to salary grade 27 or higher.

Under R. A. 6770 and R. A. 8249, the Office of the Ombudsman, through its Special Prosecutor, handles all *Sandiganbayan* cases. Those involving low ranking officials, under B. P. Blg. 129, *as amended*, are prosecuted before the regular courts, such as, regional trial courts, metropolitan trial courts, municipal trial courts and municipal circuit trial courts, depending on the gravity of the offense charged. In these cases, the prosecutors of the Department of Justice (DOJ, for brevity) are deputized by the Ombudsman to handle them.

Aside from the enforcement of criminal laws against the twin evils of graft and corruption, erring government officials and employees are likewise administratively sanctioned by various disciplining authorities having concurrent jurisdiction over them. These authorities include but not limited to the (1) Office of the Ombudsman; (2) Civil Service Commission; (3) Presidential Commission Against Graft and Corruption under the Office of the President; (4) other specialized disciplining authorities under other special laws, such as, the National Police Commission for members of the police force; and (5) heads of government agencies. Grounds for disciplinary action range from light offenses, like discourtesy and failure to act promptly on letters and requests within fifteen (15) days with respect to grave offenses, like dishonesty and grave misconduct.

Without a doubt, the Ombudsman acts as a quasi-judicial officer when he decides a case. Adopting the mindset of a jurist, the Ombudsman considers that truth is all; law is the only means; and justice is the only

dance and they conveniently use the very fruits of corruption to discredit the campaign.

The Philippines has the most complete and stringent penal laws on graft and corruption. It has death penalty on plunder, for instance, and the anti-graft law considers as corrupt practices even acts, which tend to lead to corruption. On the other hand, however, the criminal due process is tedious and exacting.

The accused has so many legal remedies available that a big-time grafter can simply hire the best law firms in town to ensure an endless proceeding, if not acquittal.

But corruption prevention was the better policy as experience has taught us that government funds lost through corruption is almost impossible to retrieve. The idea is to *nip corruption in the bud*.

It is not surprising, therefore, that the Ombudsman strategy is easily appreciated through its punitive component. But being accorded equal emphasis is the other component of its eight-point national anti-corruption strategies, and that is, corruption prevention. The guiding principle for this approach is that an ounce of prevention is better than a pound of prosecution.

Punitive Approach

The punitive approach is a reactive method of combating corruption. This consists of efficient detection of wrongdoing in the bureaucracy and aggressive investigation and prosecution of wrongdoers. It includes imposition of administrative sanctions, which by law is within the sphere of the Ombudsman's authority.

Preventive Approach

Uncompromising and speedy investigation and prosecution and ad-

ministrative adjudication. This is to send the message that "whichever way you look at it, corruption does not pay."

Efficient and responsive public assistance program which provides expeditiously delivery of public service and eliminates the reason for extortion.

Intensive graftwatch over the bureaucracy by the designation of resident Ombudsmen, non - government organization & and students organizations.

People empowerment which is realized by the enlistment of non-government organizations, corruption prevention units, student junior graft-watch units and the media as the "eyes and ears" of the Ombudsman.

Transformation of individual psyche through education and values orientation seminars. This is geared towards the elevation of the level of morality and sense of righteousness of the people particularly the public sector through values orientation seminars and continuing education.

Linkages with other government institutions and international corruption fighters. In this aspect, the core of the approach is to develop corruption prevention modules for the elementary and secondary schools with the Department of Education, Culture and Sports, and to protect the youth from imbibing distorted values and imitating corrupt behaviors from movie and television programs with the Movie and Television Review and Classification Board. Accordingly, it maintains close coordination with various agencies of the government, primary of which are the Commission on Audit, Civil Service Commission, the National Bureau of Investigation, Philippine Commission Against Graft and Corruption and the International Ombudsmen Institute.

Systems and Procedures Improvement. This is to institutionalize and intensify the conduct of indepth studies of systems and procedures in order to eliminate red tape and mismanagement which is conducive to graft and

corruption.

The Ombudsman Mission and Vision for the 21st Century

National campaign strategies against graft and corruption demand a precarious balancing act between a vision for good governance and variables serving as factual stumbling blocks. This is the experience of the Philippine Ombudsman. For truly, the noble objectives of the law can not be dichotomized from the factual milieu in which the law is operating. And neither can actions intended to curb graft and corruption be compartmentalized from the sociocultural, political and economic realities prevalent in society.

Walking this tightrope, however, has not deterred the Ombudsman from buckling down to work as the people's protector. Recognizing that in the final analysis, his authority emanates from the people, the Ombudsman has discharged his functions, duties and responsibilities to the best of his capacity and ability without sacrificing his independence and integrity.

Mission Statement

As protector of the people, the Office of the Ombudsman, in cooperation with all sectors of Filipino society, shall endeavor to promote integrity and efficiency and high ethical standards in public service through proactive approaches in graft prevention and public assistance, prompt investigation of complaints and aggressive prosecution of cases filed against erring government officials and employees.

Vision for the 21st Century

A truly independent Office run by God-fearing men and women with the highest degree of competence, honesty and integrity, and effectively

serving as watchdog, mobilizer, official critic and dispenser of justice for the people it is constitutionally mandated to protect.

The Role of the Ombudsman in Improving Public Administration

By Adv Selby Baqwa SC*

The Director of Ceremonies

Hon Members of the Asian Ombudsman Association

Your Excellencies,

Distinguished guests

Ladies and Gentlemen

It is for me a singular honour to be invited to address this august gathering in this great country that has shared with us the birth pains of our young democracy.

It is sometimes said that we South Africans have an exaggerated sense of the historical momentousness of occasions and events. It is probably due the special significance that our struggle against racial oppression occupies in the twentieth century history, that we have this awareness of occasion as we enter and build our new society. Whatever the explanation for that general awareness may be, I cannot but acknowledge the special significance of this opportunity to address the Asian Ombudsman Association in Beijing today.

I can only understand and accept the privilege in the context of it being yet another tribute to the people of South Africa by the Asian Ombudsman Association members to whom we owe so much, and an expression of the partnership which exists not only between our respective Of-

* Public Protector of the Republic of South Africa.

fices but also between our respective peoples.

Perhaps, we South Africans may have some right to the feeling I have just spoken about. Like few other struggles, our fight against racism commanded support of virtually all political persuasions across the globe. The peaceful manner in which we finally solved our political problems captured the world's imagination. Where most predicted bloodshed and untold suffering, we succeeded in negotiating an inclusive settlement. We are sometimes spoken of as a miracle nation.

People from countries represented here today and especially the People's Republic of China were, together with many other peace-loving and democratic nations, in the forefront of the effort to dislodge Apartheid. They have made our aspirations their own by insisting in the past that the rights which the world declared to be universal should also be the rights of all South African. In so doing they affirmed a fundamental principle of all human society, namely that the existence and well-being of each of us is dependent on that of our fellows. In a world that is being globalised, that is as true of nations as it is of individual men and women.

The end of the struggle against apartheid may seem to have been and perhaps was an end of a joint venture between South African and the various nations. I believe however, that it was a beginning of a new and more profound relationship between our peoples. The continuing solidarity and mutual co-operation in other fields such as social and economic development bear testimony to this fact.

The South African Constitution is often lauded as one of the most progressive in the world. This esteem is mostly attributed to the inclusion of socio-economic rights in the Bill of Rights and the extension of the right to equality to a long list of grounds including sexual orientation.

Yet one of the strongest aspects of our Constitution is the creation of

an institutional framework to strengthen our constitutional democracy. Our constitutional drafters understood that a constitution alone would not transform our society. Indeed the progressive gains in our Constitution have to be protected and extended. This job falls to the independent watchdog institutions whose status is entrenched in the constitution namely: The South African Human Rights Commission, the Commission for Gender Equality, the Office of the Public Protector which is the office I occupy, and the Public Service Commission.

The Ombudsman as an institution and as it exists today originates in Scandinavia around the year 1806 with Sweden being recognised as the founding country.

In establishing the office, the Government of South Africa realised that no matter how well they may be disposed towards the rights of people, the instruments of administration which they needed to set up to give effect to policies and programmes could develop a bureaucratic life of their own which could not always be controlled by the political executive. A bureaucracy would be concerned with systems, procedures and the conversion of policy into administrative programmes, where rules and practices easily become the end objective rather than service to the community.

There were other underlying reasons as well connected with growing respect for human dignity, for the human rights of the individual, for fair and just government, for greater transparency in government administration, and for greater accountability of the political executive to the people who elected them.

The South African government and the people of South Africa saw political advantage in finding some means to make bureaucracy more accountable to the people and eliminate the political fall out resulting from maladministration at the periphery of government activity. In shaping the South African Constitution, softening the relationship between the gov-

erned and government, and the creation of fair and just government were seen as important elements in the search for a modern democratic state. Bureaucracy is an essential ingredient in a democratic state but it has to be made responsive to the needs of the people.

Establishment

The Office of the Public Protector was established by means of the provisions of the interim Constitution, 1993. The final Constitution, 1996, which was the result of a lengthy and very involved process of constitutional development, confirmed the Public Protector as an institution that strengthens constitutional democracy in South Africa. It specifically provided that the Public Protector is independent and that he/she must perform his/her functions without fear, favour or prejudice. Other organs of state must assist the Public Protector to ensure his/her independence, impartiality, dignity and effectiveness. The Public Protector is accountable to the National Assembly and must report on his/her activities and the performance of his/her functions at least once a year.

Appointment

The interim Constitution provided for the Public Protector to be appointed by the President following an approval by at least 75% of the members of both Houses of Parliament of the nomination of a candidate by a committee that comprised of one member of each party that was represented in parliament. The final Constitution changed this process quite dramatically. Presently, the approval, has to be by at least 60% of the members of the National Assembly.

Powers and functions

The Constitution has provided the Public Protector with powers and

functions that compare very well with those of other classical ombudsman institutions in the western world and developing countries. It provides that:

- The Public Protector has the power to investigate any conduct in state affairs or in the public administration in any sphere of government which is alleged or suspected to be improper or to result in any impropriety or prejudice;

- to report on that conduct;

- to take appropriate remedial action.

Excluded from the powers of the Public Protector is the investigation of court decisions. The jurisdiction of the Public Protector is also bolstered by national legislation from time to time. For example the Promotion of Access to Information Act which came into force recently empowers the Public Protector to resolve any dispute relating to the operation or the administration of this very important legislation.

South Africans have become aware of the fact that not only do they now have a Constitution that protects their fundamental human rights, but also that they have the right to seek redress if those rights are violated. Thus, the institution of the Office of the Public Protector has become widely known and a respected public institution.

Further, as the Public Protector has gone about his work, more and more public servants and those holding public office have come to understand the importance of the Public Protector in the strengthening of our constitutional democracy. There is, therefore, increasing acceptance of the fact that the existence of the Office of the Public Protector assists government at all levels to maintain an efficient people-centred administration.

On the other hand this enhances the possibility to further improve co-operation between government agencies and the Office of the Public Protector for the benefit both of the institutions concerned and the citizen-

ry at large.

Furthermore by performing this task effectively there is a positive contribution to the ethics and integrity of public administration, to the improvement of processes, practices, policies and even of legislation all of which impact on the way a government does business with its people. The Ombudsman publicly warns the people and government of issues that need attention as between those that govern and those who are governed. These warnings facilitate debate on public policy and have considerable political impact for change.

These processes are of the greatest importance to us as we strive everyday to entrench the principles of transparency, accountability and service in the functioning of our system of governance. For many of us, they have a particular resonance since from the days of struggle for democracy we espoused the principle "the people shall govern!"

The impact of the work of the office extends beyond ensuring the rights of particular individuals. Rooting out the legacy in government of the apartheid years of arrogance, secrecy and corruption is a task still to be completed.

In that regard, the Public Protector's Office is of critical importance in the transformation of the public service into one which is worthy of the name - one that is dedicated to, and effective in, translating the democratic mandate of government into a better life for all South Africans.

For all these reasons one is conscious of the enormous responsibility of a Public Protector's Office in a society in transition such as ours.

South Africa is currently undergoing critical and exhilarating developments. However, no one is under any illusions as to the challenges which face the nation as a whole. We draw encouragement from the fact that the nation has, in the recent past, faced devastating odds and overcome them. There is no doubt that when, sometime soon, the real history

of South Africa gets to be written, a chapter will occupy pride of place in the story of the transition from the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice to a constitutional state founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South African, irrespective of colour, race, class, belief or sex.

I thank you for listening.

The Swedish Parliamentary Ombudsmen – An Expose of the Inception, Development and Present Functioning of the Oldest Ombudsman Institution in the World

By Marianne von der Esch*

The Institution of the Parliamentary Ombudsmen has been described as Sweden's most important contribution to the international constitutional development. The Swedish Institution started its work in 1810 and it remained the only Institution of its kind for more than 100 years. Sweden thus has a unique experience of the Ombudsman Institution, and I think this experience might be of some interest also to Asian countries that have introduced – or are considering introducing – the Ombudsman idea.

Today Ombudsman offices can be found in more than 100 countries all over the world. These Institutions – that mostly are established as a complement to the regular judiciary institutions – appear in many different shapes. There is the “*classic*” *Ombudsman* that can be found in the Nordic countries and in i. a. Poland, the Netherlands, Spain and South America. One sometimes meets with *human rights Ombudsmen* as in Hungary or with *human rights commissions* as in Central America. In many French speaking countries you will find a model where the Ombudsman has a *mediating* function (*Médiateur*). There are national, regional

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and local Ombudsmen. They all have in common, however, that they are *democratic institutions based on the recognition of the fundamental rights of the individuals and the principle of the rule of law.*

Sweden is the mother of the "classic" Ombudsman Institution. The second country to introduce the system was Finland in 1919 and then Denmark in the 1950's. In the Scandinavian tradition Parliament sees the Ombudsman as the official, whose task is to supervise the executive on behalf of the Parliament. The Ombudsman reports his/her findings to the Parliament as the highest supervisory body in a democratic system. This classic model is inseparably linked to democracy and the rule of law. In Sweden lawfulness of the executive's actions is – and has always been – the foremost concern.

The "classic" Ombudsman occupies a unique position regarding the "three powers of state" – *the legislative, the executive and the judiciary.* As far as the *legislature* is concerned, the Parliamentary Ombudsman – though elected by the Parliament – is not part of it. An Ombudsman has his own status laid down by law through which his independence is guaranteed – also in relation to the Parliament itself. A Parliamentary Ombudsman Institution reports annually to the Parliament but the Parliament may not give him/her certain instructions. The same applies to the relationship to the *executive*, to which an Ombudsman does not belong, and whose actions he/she investigates. The Ombudsman is also independent in relation to the *judiciary*, which is independent itself – under the rule of law – to the other state powers. The relations of a "classic" Ombudsman to the "three powers of state", are thus unique.

The Swedish word *Ombudsman* denotes a representative, a person whose task is to take care of somebody else's interests.

Historical background

The Office of the Swedish Parliamentary Ombudsman was created in 1809 as a part of the new constitution that was adopted the same year. The historical background is long and interesting but I will not dedicate our precious time to giving you too long a lesson in Swedish history! I just want to mention that the first Swedish Ombudsman was a royal official, the King's "Supreme Ombudsman", which was established in 1714 by King Charles XII. One of the duties of the royal Ombudsman (later known as the *Chancellor of Justice*) was to assist the King in one of the fundamental tasks of government, namely to ensure that the public administration functioned correctly. He did so in his capacity as the highest prosecutor in the country. It was an important task of the King's Ombudsman to supervise the judges and other public officials and to prosecute any such person that was found to have violated the law in his official capacity. This role fitted well into the existing administrative system in Sweden, which was – and still is – based on three fundamental principles, namely the *rule of law*, a considerable measure of *independence for the authorities* and their employees and finally the principle of *accountability under criminal law* of every Swedish official for his actions in his official capacity.

After the death of King Charles in 1718, most of the political power in Sweden was transferred from the King to the Swedish Parliament, the Riksdag. As a consequence the Chancellor of Justice in practice was regarded as a servant of the Riksdag, and the Riksdag in 1766 for the first time elected the Chancellor of Justice. The year of 1766 thus saw the birth of the concept of the Parliamentary Ombudsman.

Then a short period of royal absolutism followed and the King again appointed The Chancellor of Justice. 1809 a revolutionary situation prevailed in Sweden. The Finnish dominions had been lost in a disastrous

war against Russia, and the King was dethroned. In a few weeks a new constitution was created, based on the *principle of balance of power* between the King and the Riksdag. The parliamentary control over the executive's exercise of power now became much stronger.

A new *Parliamentary Ombudsman* Institution was introduced in the constitution. This Ombudsman was to be completely independent of the executive power and to be accountable only to the Riksdag. Representing the Riksdag his task was to see to that the citizens enjoyed the protection granted them by the law in their dealings with the courts of law and the administrative authorities. Like the Chancellor of Justice the Parliamentary Ombudsman was a prosecutor and he thus had a function that was comparatively easy to fit into the regular system of government.

The main difference between the role of the King's Ombudsman and that of the Parliamentary Ombudsman was that the former acted on behalf of the King, and the Parliamentary Ombudsman was to protect the rights of the individual citizen.

Changes and development of the Swedish Ombudsman Institution

Even though the Ombudsman Institution basically has remained the same since the first Ombudsman was elected in 1810 there have of course been reforms of the organisation and working methods due to the development of the Swedish public administration and other changes in the Swedish society.

One obvious change is the gradual increase of the *number of Ombudsmen* from one to four. This is due to the growth of the public administration and the increase of the workload of the Institution that has followed. An important factor here was the incorporation in 1957 of the local government within the jurisdiction of the Ombudsmen.

Another change concerns the role of the Ombudsman as prosecutor. The Ombudsmen soon realised that their work on improving the quality of the public administration and administration of justice could be made much more effective if they intervened also against errors that were *not* of such a serious nature as to give cause to legal action. In order to be able to inform the officials about the contents and the correct application of the law also in such cases they introduced a *practice of stating their reasons for not prosecuting*.

Out of this practice arose what is now the most important tool of every Ombudsman in the world: *the right to issue non-binding reports and recommendations and to make statements whether a measure taken by an authority or an official is in breach of the law or is otherwise erroneous or inappropriate*.

The most significant change in the activities of the Swedish Ombudsman Institution during the 20th century is the increase of the *number of complaints*. During the whole of the 19th century the Ombudsmen received less than 100 complaints annually, and consequently most cases were opened on the Ombudsmen's own initiative. In the middle of the 1950s the number had risen to 700 – 800, and now the Ombudsmen receive almost 5,000 complaints annually. Out of these some 40% are being *dismissed* or concluded without further inquiry due to different reasons. Roughly 60% of the complaints are being *investigated*. (There are two different ways of investigating the complaints. Either a *summary investigation*, which is the case of some 35% of all the complaints. The remaining 25% are *investigated "in full"*.) On average 12%—15% of all the complaints result in any kind of non-binding critical pronouncements from the Ombudsmen. The fact that the Parliamentary Ombudsmen Institution today is mainly a complaint-handling office means i. a. that it plays an important role in the awareness of the ordinary citizens and also

of the public officials. The Ombudsmen in this way contribute to give the individuals a feeling of security in their dealings with the authorities.

The Ombudsmen and the Constitution

The role and the position of the Ombudsman Institution in the constitutional system are basically the same today as in 1810. Its task is still – on behalf of the Riksdag and in total independence of the executive – to carry out *juridical supervision of the courts and the public administration in the interest of the individuals*.

In order to understand the position of the Ombudsman Institution in the system of government it is necessary to have some knowledge of the *Swedish public administration*. Unlike most other countries Sweden does not have a ministerial system. The Swedish ministers are not heads of the different branches of the administration. Their duties are instead concentrated on policymaking activities. This means that a Swedish cabinet minister is not head of a ministry in the usual sense; he has to his disposal only a rather small staff – usually between 100 and 200 persons who prepare bills, government decrees and other cabinet decisions.

The administrative work is instead carried out by *autonomous administrative authorities* which have the same constitutionally guaranteed independence as the courts of law and the administrative courts when they apply acts of law decided by the Riksdag or otherwise make decisions concerning the rights and duties of individuals or juridical persons. Every authority and every official within the authority has an *independent responsibility* for ensuring that the treatment afforded a case and the decisions made are lawful and correct also in other respects.

Against this background it has been considered natural to organise the constitutional control of government in such a way that the Riksdag, through its *Constitutional Committee*, supervises the ministers and Cabi-

net and the *Parliamentary Ombudsmen* supervise the administrative authorities and the courts. A third branch of Parliamentary constitutional control is carried out by the *Parliamentary Auditors* who's main objective is to ensure that public resources are being used as efficiently as possible.

Independence is a key word when one wants to describe the Swedish Ombudsman system. A prerequisite of public confidence in the Ombudsman as a guarantee for the rights of the ordinary citizen against those who exercise public power is that he is free and independent not only in theory but also in reality. It has in fact been regarded as essential that an Ombudsman should as far as possible act independently also of the Riksdag that has granted him his powers.

The activities of the Ombudsmen are regulated by an act of law decided by the Riksdag, and their work is financed by an annual allocation, voted by the Riksdag on the basis of estimates made by the Ombudsmen themselves. Within these bounds the Ombudsmen have complete freedom of action with regard to the Riksdag. They lay down their own procedures and they select on their own discretion the authorities that should be inspected, the issues that should require their attention and the complaints that should warrant a more thorough investigation.

The Jurisdiction of the Ombudsmen

The Ombudsmen's supervision covers all *governmental agencies and the local government as well as the individual members of their staff*. They also supervise other persons who exercise public power. But, as I have already mentioned, they do not supervise Cabinet ministers. Nor do they supervise members of the Riksdag or of the municipal councils.

It should be noted that in many cases the decision of an administrative agency can be appealed against at an administrative court, which has the right to review the decision in its entirety. This means that there is

usually no need for the Ombudsmen to look into matters concerning the material content of such decisions. The Ombudsmen instead pay attention mainly to *matters of procedure*. One of their most important tasks is in fact to *promote good administrative and judicial behaviour*.

The Weapons of the Swedish Parliamentary Ombudsmen

As mentioned before the Ombudsmen still have *the right to prosecute* officials who have violated the law in their official capacity. Even though prosecutions nowadays are not very frequent, the right to prosecute negligent officials is still an important basis for the authority of the Ombudsman office, and it gives a special weight to the critical pronouncements made by the Ombudsmen. The Ombudsmen can prosecute any official under their supervision before an ordinary court of law for any crime committed in his official capacity. (Of special importance in this respect is a provision in the Penal Code concerning wilful misuse and negligent use of public power.)

The main weapon of today is the power to *admonish or criticise negligent officials*. If an Ombudsman finds that a decision or an action made by an official or an authority is inadequate, improper or unwise but not punishable under criminal law, he will tell how, in his opinion, the matter should have been handled. The Ombudsmen also have the right to make *statements based on individual cases in order to promote uniform and appropriate application of the law*.

The Ombudsmen also have the possibility to *initiate disciplinary proceedings*: Further they have the right to address the Cabinet or the Riksdag in order to ask for or *suggest amendments of the law*.

International Cooperation

Politicians, lawyers and scholars from all over the world have shown

great interest in the Swedish Parliamentary Ombudsmen Institution and its extensive historical experience. We receive between 40—50 *visits* per year from abroad, which are made for information, further study and discussions, etc. The delegations consist of one or more individuals. As a rule, visitors meet one or several Ombudsmen, the Head of Staff and the Head of the International Division for a couple of hours for information and discussions. Some delegations stay for up to a week to get a thorough study of the work of the Office. These visitors come mainly from countries with newly established Ombudsman Institutions or from countries intending to introduce similar Institutions. We have had the pleasure to receive several delegations from Ombudsman Institutions represented here today.

International interest in our Institution also leads to a large number of invitations to the Ombudsmen – in particular the Chief Parliamentary Ombudsman – and other members of the staff involved in international issues, to visit various countries to lecture, provide information and participate in congresses, conferences, seminars etc. Because of the workload only a small number of these invitations can be accepted, but they result nevertheless in about 20 *international visits* annually. – I am myself very grateful to have the opportunity to attend this Conference, representing the oldest Ombudsman Institution. I therefore want to express my gratitude to the Ministry of Supervision – a Ministry that Ombudsmen from our Institution have had the pleasure to visit twice and also a Ministry from which we twice have had the pleasure to receive delegations on the highest level.

The Impact of the Ombudsmen

Certainly it is difficult to evaluate the impact of the Swedish Parliamentary Ombudsmen, but I dare to say that it is hardly possible to imagine the Swedish Constitution without the Parliamentary Ombudsmen. *They*

function as a stabilising factor in the Swedish society by giving the ordinary citizen a feeling of confidence in his dealings with the authorities.

An important function of the Ombudsman Institution is to contribute to the *maintaining of public confidence in the administrative system*. The citizens can see that errors within the administration do not go unpunished. Since a critical pronouncement by an Ombudsman is often directed against an individual official it functions in very much the same way as a disciplinary punishment. This effect is strengthened by the fact that such pronouncements are often publicised in the media.

The Ombudsman Institution also is of great help to the authorities by offering *legal advice and clarifying the contents of the law concerning e. g. administrative and judicial procedure*. The Ombudsmen in some cases bring about important changes in the routines and methods used by the authorities or in the legislation. In fact the authorities as a rule regard the Ombudsmen's pronouncements as binding even though this is formally not the case. One of the most important functions of the Parliamentary Ombudsmen Institution is to *take part in the developing of Swedish administrative and procedural law*. The ideal situation is that the Ombudsmen shall prevent mistakes from happening!

All in all the Swedish experience proves that the Ombudsman can play an invaluable role in the *defence of the rights of the individual in a system of government that recognises the principle of the rule of law and the fundamental rights of the individuals*. Even though the Ombudsman Institution never can replace such regular legal institutions as the courts or the public prosecutors it can be an indispensable complement to them.

The Role of the Ombudsman in Improving Public Administration

By Ranjit Ranaraja *

Introduction

The Ombudsman in its classical form has been described as a public office⁽¹⁾ established by the Constitution or Statute,⁽²⁾ having the power to entertain direct complaints about injustices and maladministration from aggrieved persons against state agencies, officials and employees; the duty of the Ombudsman being to safeguard individual rights and ensure proper governance.⁽³⁾ The Ombudsman has powers to investigate, report on and make recommendations in respect of individual complaints and administrative procedures.⁽⁴⁾

The Ombudsman acts independently, impartially, and in a non adversarial⁽⁵⁾ informal setting through a process of mediation and conciliation.⁽⁶⁾ Generally the recommendations of the Ombudsman are not legally binding⁽⁷⁾ and the Ombudsman has no power of enforcement⁽⁸⁾ or sanction⁽⁹⁾. The Ombudsman gains moral influence for acceptance of recommendations based on the integrity of processes, the intellectual logic of reasons supporting the recommendation and well established goodwill.⁽¹⁰⁾

Changing Trends

The Traditional role of the Ombudsman has been changing over the

* Ombudsman of Srilanka.

last few decades. The office has been given jurisdiction over a wide range of subjects such as human rights and corruption in government. At the same time the Ombudsman has had to assert its duties towards the citizen in the face of privatization of state agencies. Such changes have in turn resulted in transforming to a great extent the salient features of the classical Ombudsman. Human rights jurisdiction and checking corruption will necessarily entail prosecutory powers or advocacy before courts or tribunals and adopting a pro – active adversarial approach in resolving disputes with the state⁽¹²⁾. Anti – corruption work requires a cadre of investigative officers and enforcement powers. The success of a large office covering an enhanced jurisdiction would depend to a great extent on good organization and management of its functions. Some countries have avoided causing radical changes in the office of the Ombudsman by establishing other agencies with jurisdiction over human rights violations and corruption⁽¹³⁾.

The comments here will be confined to the contraction of the Ombudsman's jurisdiction due to privatization and what means could yet be employed to improve the performance of the “privatized” agencies.

Privatization

Privatization may take different forms ranging from divestiture, whereby the state relinquishes ownership and management of a service, to contracting out, by which the state contracts with a private external agency to perform services as a trading enterprise.⁽¹⁴⁾ The services that were traditionally regarded as public utilities included the provision of Water, Energy, Transport and Telecommunications.

The rationale behind the shift from state ownership and management to a private entity was the need to reduce state expenditure by casting the burden of bearing the cost of providing the service on the consumer rather than the tax-payer.

The jurisdiction of the Ombudsman over privatized enterprises is being challenged on several grounds. It is argued, if an enterprise is to operate as a successful business, profitability and efficiency takes priority over service to the public. There is a need to preserve secrecy in the face of competition, as such, the Ombudsman's ability to access information would be detrimental to the competitiveness of the enterprise. The cost of responding to the Ombudsman would also have an effect on the profitability of the enterprise. It is also argued that the legislature intended the privatized enterprises should be accountable only to the legislature through the minister concerned and non else.⁽¹⁵⁾

The counter argument is that as far as public utilities are concerned, the deliverer, be it the public or private sector, the state must be held accountable for the quality of those services.

Whether in the case of public utilities or otherwise, the jurisdiction of the Ombudsman may be preserved by statutory or contractual provision. Where it has not been preserved, the Ombudsman has to look for other means to safeguard individual rights and ensure good governance. One way is through the pronouncements of the judiciary.

The Ombudsman's office was and should continue to be the quality control mechanism. The test of jurisdiction of Ombudsman should not be whether the service is provided by a public or private entity, but whether the service is a public utility or public service. Where the state sets up an entity, which in substance it owns and controls, that entity may in turn set up a limited liability company or entity and so on. But however long the chain may be, if ultimately it is the state which has effective ownership and control, all those entities, every link in that chain, are state agencies.⁽¹⁷⁾ Where the state owes a duty of care in the exercise of its authority it will be liable for the negligence of its contractor's employees.⁽¹⁸⁾ If agencies and instrumentalities of the state were not held to be "other author-

ities", it would be the easiest thing for the state to assign to a plurality of corporations almost every state business or economic activity and thereby cheat the people of the fundamental rights guaranteed to them.⁽¹⁹⁾ The state and its agencies must necessarily act through officers and agents, and the acts of such officers and agents are the acts of the state for which it is liable. As the ruling notion of agency Law may be said to be that the acts of a person (agent) authorized or to be treated as authorised by another are in certain circumstances, to be treated as having the same legal effect as if they had been done by that other (the Principal). This is sometimes expressed by the idea that the agent's acts are those of the principal: "qui facit per alium facit per se". That is true both in the sphere of contract and public law.⁽²¹⁾

Conclusion

The Ombudsman's jurisdiction is not confined to what is illegal. Any act which is unfair, unjust or discriminatory can be challenged before the Ombudsman. If agencies and instrumentalities of the state responsible for the delivery of public services were exempted from the jurisdiction of the Ombudsman, such a measure would deprive the recipient of the right to the protection hitherto enjoyed.

How Could Ombudsman Improve Public Administration System: A Case from Thailand

By Pichet Soontornpipit*

Introduction

Thailand is a constitution monarch country. Under the current 1997 constitution, there are three main authorities undertaking duties of administration, legislation, and judiciary to 'check and balance' each other's power for country's stability.

Legislative branch comprises of 500 House of Representatives of which 400 MPs are elected by constituency system and 100 MPs are elected through party list system; and 200 Senators elected by provincial zoning system. The Administrative branch comprises of Cabinet headed by Prime Minister with the total of 36 ministerial posts. The Judicial branch includes Court of Justice, which is a court for private sector, and Supreme Court of Justice Criminal Division, which is an extraordinary court for persons holding political positions.

Thai public administration contains 3 types of administration. They are

1. Central Administration

Currently, we have 17 Ministries, 399 Departments, and 64 State

* Ombudsman of Thailand.

Enterprises but the government is drafting the new Public Administration Act that is expected to finish before 30 September 2002. The new Act will reduce the duplication of duties and authorities from various departments and group agencies with similar mandate into one organization.

2. Provincial Administration

For administrative purposes, Thailand is divided into provinces. Each province is subdivided into districts, which are further subdivided into sub - districts, and then village groups. The provincial governors and district officers are appointed by Minister through the suggested list from Permanent Secretary of Interior Ministry.

3. Local Administration

Taking the idea of decentralization and self - governed organization into consideration, the local administration contains 1,129 municipalities, 75^① Provincial Administration Organizations, 6,745 Sub - district Administration Organizations, and two Special Local Administrations (Bangkok and Pattaya) which community members and villagers elect the administrators of the local organizations. Initially, government subsidized central budget to operate the organization. Gradually, policy and budget will be planned, collected, and operated by the elected members who administer on a fixed term basis. Roles and responsibility of local administration organization will be increased dramatically from now on. Total government budget allocated to these organizations are around 9 percent. However, by the year 2006, government has to transfer 35 percent of its fiscal budget to local government organizations along with the delegation of authority and staff assignment.

Under the current 1997 Constitution, these authorities are included

① Currently, there are 75 provinces, 276 districts, 7,225 sub - districts, and 71,362 villages.

the Ombudsman's jurisdiction. Moreover, taking 62 millions Thai population into consideration, the work of the Ombudsman will not be very easy to undertake unless the Ombudsman received corporation from these authorities concerned.

Ombudsman is intended to be an arm of the Parliament to observe the government administration through the investigation on the complaints from the public against administrative injustice and mal-administration. However, the Ombudsman is not working against the government. Instead, while the Ombudsman is helping people to solve their problems, the Ombudsman is also helping the government to improve its credibility, good governance and, ideally, to have sustainable accountability.

Good Governance: a recognition by the administration

The Thai governments have recognized the essential of good governance and placed high priority to create it without delay. The Council of Ministers adopted the National Agenda on the Establishment of the Good Governance at its meeting on May 11, 1999. Consequently, Mr. Chuan Leekpai, former Prime Minister issued the Office of the Prime Minister's Regulation on Good Governance on June 30, 1999.

Prime Minister Thaksin Shinawatra delivered the policy of the current government to the National Assembly on Monday, 26 February 2001. It is the policy of the Government to promote the country's political development towards participatory democracy in order to give the people the opportunity for greater self-government and protection of their own rights.

The Government is trying to commit to improve efficiency, create greater transparency and eliminate corruption in public administration and services, with a view to enhancing social justice and national development at present and in the future. [The following policy guidelines are some of the attempt that the current government tries to implement.

1. Political Reform

(1) Expedite the enactment and amendment of laws in accordance with the provisions of the Constitution so that the people's constitutional rights and freedoms are truly protected.

(2) Promote the implementation of human rights principles in public administration and the learning of human rights and civic duties in educational institutions.

(3) Enable the constitution - based non - government agencies to function efficiently, transparently and with accountability.

(4) Promote and support the establishment of various forms of organizations and among private individuals, and encourage such organizations to participate in political activities as well as to present their opinions and assessments concerning important government projects

(5) Encourage the Thai people and private organizations to cooperate closely with people and non - governmental organizations (NGOs) abroad, with a view to forging a constructive relationship between the countries and the peoples.

2. Public Administration Reform

(1) Reform the public sector in order to improve efficiency and streamline the governmental structure in line with the current situation and to enable the public sector to better serve national economic and social development.

(2) Revise the public sector's role from operator and controller to supporter and facilitator. Support the activities and roles of the private sector and the people by enabling them to actively participate in the process of public reform in order to lay down clear and continuous guidelines for operations.

(3) Improve the public administration process by utilizing information technology. Information Act will be amended to truly serve the

people's needs.

(4) Accelerate measures to improve the quality of government officials, inculcating in them a favorable attitude towards public service.

(5) Revise various laws, regulations, operation procedures, and guidelines in order to achieve flexibility, effectiveness, transparency, and accountability in public administration.

(6) Accelerate the reform of the budgeting process, making it an efficient tool for the allocation of resources in a way that is consistent with national development policies and strategies.

(7) Promote the public agencies to play a greater decision - making role as well as institute an efficient and transparent inspection system.

3. Prevention and Suppression of Corruption

(1) Undertake all measures of punishment necessary - whether disciplinary, administrative, civil, criminal or tax - related - in a manner that is resolute, swift and fair to both corrupters and those involved in protecting them.

(2) Push for the amendment and revision of legislation, develop the monitoring system to ensure that those found guilty of corruption are severely punished.

(3) Compensation should also be paid to the public sector and the people who have been affected by such corruption.

(4) Conduct a serious campaign against corruption.

(5) Encourage the people to join together in forming people's organizations and to play a participatory role in the prevention and suppression of corruption and malfeasance.

(6) Reform the process of budgetary allocation and spending as well as the public procurement system with a view to enhancing transparency and efficiency in approving the budget.]

Recently, the Supreme Court's political Crime section has convicted]

a former adviser to former deputy public health minister of malfeasance in connection with the 1.4 billion bath medical supplies scam and sentenced him to six years in jail. The case started from August 1998 when reports accused some politicians of irregularities in buying medicines and medical supplies had led to a probe by National Counter Corruption Commission (NCCC). In 2001, the public prosecutor filed a case against politicians following a recommendation from the NCCC. This ruling was considered a landmark victory for graft fighters and proof that the reform constitution could function effectively in tracking rampant corruption involving state contracts.

This case is the first case for political post – holders tried by the special judicial unit set up by the 1997 Constitution to deal specifically with graft and abuse – of – authority cases against politicians.

Expectation from public and majority of the people towards government and political party to be transparent and accountable will be greater over time. The law enforcement is also getting tougher and more competent. Hence, partakers require more positive and counterproductive mechanism to maintain their status in the society. When the executive power and its administrative organizations are willing to accept and improve their own administration, it is very good sign of the development of good governance in Thailand and the objectives of the Ombudsman, to reducing unfair or unjust treatment by public sectors, will be easily reached.

How could Ombudsman contribute to the good governance in public administration?

Under the 1997 Constitution, the following mechanisms are established in order to balance and control administrative power through the formation of Constitutional Court, Administrative Court, National Election Commission and National Counter Corruption Commission, National Com-

mittee on Human Rights, State Audit Commission, and Ombudsman. As one of these new independent organizations, Ombudsman will have very busy tasks ahead to response to the requirement from people, expectation from governmental organizations, and concerned agencies to help develop good governance in the public administration system.

According to the 2000 Organic Law on Ombudsmen, the mandate of the Ombudsmen is mainly to consider and investigate complaints when civil servant, member or employee of a government body, state agency, state enterprise or local government violates the law or exceeds the jurisdiction of his or her authority; and, when an action or inaction by civil servant, member or employee of a government agency, state enterprise or local government causes harm, damage or injustice to an individual or to the general public, whether or not this action or inaction is within his or her jurisdiction.

Since the establishment of the office in the year 2000, the Ombudsman considered complaints concerning actions or inaction of civil servants or employees by investigating and submitting the reports together with opinions and recommendations for corrective action to the relevant state agencies.

Since the official establishment of the office from December 1999 to February 2002, the Ombudsman received 1,560 complaints in total. The implementation of investigation and resolution can be summarized as follow: -

- 365 complaints were declined for consideration.
- 259 complaints were accepted for consideration and decisions had already been made.
- 14 complaints were withdrawn.
- 919 complaints had been undertaking for investigation.
- 3 complaints were submitted for information only.

The Ombudsman is also promoting the dissemination of knowledge and awareness on the rights of the people to lodge a complaint and other matters such as act that violates the law or exceeds the jurisdiction; or acts that cause harm, damage or injustice to an individual or to the general public. This is aimed to build mutual understanding between civil servants and people and at the same time, lessen conflicts between state officials and ombudsman's mandate.

The Ombudsman formulated the policy and work procedure to be used as a guideline for officials to implement, such as

✓ ○ The Ombudsman as well as his ombudsman officers will consider and investigate a complaint without delay and with fairness and neutrality.

○ When a complaint is declined or may be declined, such complaint can be transferred to a relevant government body, state agency, state enterprise or local government for further appropriate action.

○ When a complaint is accepted, an appropriate action must be taken without delay and with adequate opportunity for both the complainant and the personnel or agency in question to explain and present relevant evidence. The Ombudsman has the power to request from the agency in question all facts, evidence and testimony relevant to the case, or to request the head of that agency to give statement or issue a letter of explanation or submit documents to the Ombudsman. The Ombudsman may request the Court to submit objects, documents, or other evidence relevant to the investigation. The Ombudsman also has the power to enter any premises where a complaint has occurred provided that the owner or person in charge has been given prior notice.

✓ ○ When a complaint is declined or ceased from consideration, the Ombudsman must notify the complainant together with reasons.

✓ ○ When consideration and investigation is finalized, a report containing all relevant facts together with opinions and recommendation will

be prepared and submitted to the relevant agency for corrective or further appropriate action.

○ When consideration is made on any complaint and it is found that an action taken by a civil servant, member or employee of a government body, state agency, state enterprise, or local government, while in compliance with the law, rule, regulation, or Cabinet decision, nevertheless results in injustice or inequality before the law, or is arbitrary, or outdated, the Ombudsman will recommend that agency to change or correct the law, rule, regulation, or Cabinet decision. In case of a Cabinet decision, the Ombudsman must also submit a report to the Cabinet.

○ When a complaint cannot be investigated further, the Ombudsman will cease an investigation and report to the Senate and the House of Representatives.

In order to strengthen the work to be implemented without delay and to be able to facilitate the complainants, the Ombudsman has set out the regulation on submitting, receiving and investigating complaints. This regulation is for the officials in charge of receiving and investigating complaints to have a standard and accepted guideline for work, which will create confidence on the people. It is also used as standard guideline for the officials, complainants, or other related agencies to understand the work towards the goal and mandate of the Ombudsman.

The Ombudsman has put every possible effort to bring the existence of the office to the attention of the people through a wide range of activities both in Bangkok and the provinces. The Ombudsman has been invited, from time to time, to speak about the Ombudsman institution in universities, academic institutions, government agencies, seminars, conferences, etc. He has been interviewed by media such as newspapers, magazines, radio and television on the jurisdiction and roles of the Ombudsman. Other executives and senior staff of the Office of the Ombudsman

have participated in a number of seminars, conferences and workshops in various places all over the country to talk about the work of the Ombudsman.

The Office of the Ombudsman has organized a program called "The Ombudsman meets people in the regions" on a quarterly basis. Until now, the program has been conducted for provinces in the Southern, Northeastern, and Northern regions. Each meeting comprises of more than 500 participants from near by provinces. It is very exciting to the rural Thais to see new organization going to the countryside and talk to them in a very respectfully way trying to boost up their awareness on their basic rights.

This program will continue in other provinces. The prime objective of the program is to let the people in the province, at the grass root level, know what the Ombudsman is doing, how the people could lodge the petition with the Ombudsman and what they could expect from the Ombudsman. The invitations were extended to local officials, businessmen, technocrats, NGO leaders, farmers, students and interested persons to participate in this program. In average, about 500 people attended the program. Pamphlets, posters, and documents were distributed to participants and the public. The people may take this opportunity to submit a complaint to the Ombudsman. Public education activities through newspapers, radio and television are made on regular basis to make sure that more and more people have opportunity to know about the Ombudsman's mandate.

With mutual understanding and intension to remedy people's grievances between organizations from executive and legislative branches, on 27 February 2002, seven prime organizations comprise of the Royal Police Bureau, Ministry of Interior, Telephone Organization of Thailand, Bangkok Metropolitan Electricity Authority, Provincial Electricity Author-

ity, Bangkok Metropolitan Waterworks Authority, and Provincial Waterworks Authority joined hands the office of Ombudsman in a signing ceremony of a cooperation to find a fast track to remedy people's grievances. Each organization nominated their counterpart staff to be a focal point to correspond to complainant's petition received through the Intake division in the Office of the Ombudsman. The idea of cooperation has been developed from problems during the official channel between office of the Ombudsman and relevant agencies that require large amount of paper work and time – consuming process. Under this arrangement, the communication could be processed through the 'hot line number' from each organization. Complaints will be dealt with fast and prompt actions from the organization concerned and office of the Ombudsman. When particular complaint is solved through this system, Ombudsman will inform the complainant that the complaint is resolved as well as to the concerned authorities thanking them for the full cooperation. The agreement has been forwarded to Cabinet for acknowledgement and the Cabinet distributed the document to departments and ministries to be standard practice later on.

In order to have an in – depth research and studies on related matters on Ombudsman, there was a memorandum of understanding between Sukkothai thammairaj Open University and the office of the Ombudsman to establish a center called 'Ombudsman Studies Center.' The center will undertake the role of researcher on issues assigned by the Ombudsman or the office as well as trainer on course or discipline requested by office of the Ombudsman.

Conclusion

[During this time when the political development is paving its way towards the good governance ideology, there are a lot of pros and cons, praise and criticism in the society towards performance of governmental a-

gencies and independent organizations. Not only public sector that has to adjust, private sector as well as non – governmental organization also needs to modify themselves to good practice in order to maintain social stability. Concern will be placed on transparency, accountability, and social justice. Ombudsman institution will be one of several measurements to help bringing about the ultimate contentment of the Thais.)

The Role of Vietnam State Inspectorate in the Improvement of Public Administration

By Tran Quoc Truong *

Your Excellency Mr. President of the Asian Ombudsman Association,
Your Excellency Mr. President of the International Ombudsman Institute,
Mr. Chairman of the Conference, Ladies and Gentlemen:

Today, the 7th Asian Ombudsman Conference is being held in Beijing, the capital of the great, beautiful and prosperous China.

On behalf of the Delegation from Vietnam State Inspectorate, the Socialist Republic of Vietnam, we would like to present to the two Presidents of AOA and IOI, the Chairman of the Conference and all delegates here in this Conference the warmest greetings and the wish for good health.

Ladies and Gentlemen

We have, through the previous Asian Ombudsman Conferences, introduced comprehensively about the organisation and operations of Vietnam inspection. Today, once again, we take this opportunity of attending this Conference to exchange and share experiences with the other ombudsman offices within our Asian Ombudsman Association. This is a good chance for us to understand more with one another, share experiences and promote our cooperation and mutual assistance for the common objectives of peace, friendship, cooperation and development.

Under the Conference's theme: "Ombudsman with the improvement

* First Vice Minister of Vietnam State Inspectorate.

of public administration", I would like to present some points about "the role of Vietnam State Inspectorates in the improvement of public administration in Vietnam".

Vietnam's renovation cause, though still facing lots of difficulties and serious challenges, has gained the great and important achievements. We have successfully maintained the political-social stability, overcome the influences of the regional economic crisis, continued to maintain our economic growth speed; a great number of social-economic policies, programmes and projects have been carried out effectively, among which the hunger eradication and poverty alleviation programmes including the comprehensive programme for public administrative reform have been highly valued by other countries; our people's material and spiritual lives have been much improved; the target of illiteracy eradication and primary education popularization in the whole country has been reached; and we have set up and promoted our international economic relationship with most countries in the region and in the world.

The objective of our renovation cause is to make Vietnam a modern industrialized country with "prosperous people, strong nation and equal, democratic and civilized society".

Upon the demand from the renovation cause and by carrying out it, together with the formation and implementation of guidelines and policies, the law-making and the economic-social development, Vietnam Government has set out the comprehensive Programme for public administrative reform for the period 2001—2010 and has been implementing the programme's first period (2001—2005), which is aimed at setting up and perfecting the institutions and mechanisms, first of all the economic institutions for the market economy under the socialist orientation, the mechanisms for organisation and operation of the public administrative system and for the reform of the public administrative engine.

By carrying out late President Ho Chi Minh's legacies that "when the branches and localities receive Resolutions or Orders from the Central or Government, without inspection, it is difficult to know which localities implement them well, which ones so and which ones badly; or whether those localities implement them or not; leading to the situation that the Central doesn't know the truth and the localities themselves don't know, either, the Central doesn't understand the localities and the localities don't understand the Central. Inspectorates are set up to observe how the localities obey and implement those orders and plans", and that "Inspectorates are the ears and eyes of the Central and the friends of the localities", the State of Vietnam always highly regards the role of the inspection and examination works. This has been clearly mentioned and pointed out in many legal documents. The Ordinance on Inspection regulates that:

- Inspection is an essential function in State management, it is a mode to ensure the legal system, to strengthen disciplines in State management and to carry out the democratic rights;

- The objectives of performing inspection are to promote the positive factors, prevent and handle law violations, boost the fulfillment of duties, perfect the management mechanism, strengthen the legal system and protect the State's interests, the legitimate rights and benefits of citizens.

Over the last years, under the leadership and direction of the Government and the governments at all levels, the organisation and operations of Vietnam inspection have entered a new step of development. The State inspection system, including inspectorates in all branches and at all administrative levels, from the central to the districts, together with the people's inspection network at commune and ward levels, are the confirmation for the continuous development of Vietnam inspection.

The performance of inspection has concentrated on valuing the implementation of laws, policies and the social-economic programs and pro-

jects, inspecting for combating corruption, inspecting responsibilities in dealing with complaints and denunciations, etc... A number of inspections have been carried out in a large scale throughout the country under the same content, requirements and period of time and under the united and concentrated direction of the Inspector General, ensuring the efficiency and effectiveness of the macro-level management and direction works by the Government as well as the management and direction works by the administrations at all branches and levels.

In performing the assigned functions and duties, serving the direction and management of Government and the governments at all levels on the implementation of laws, policies, economic-social development programs and in order to prevent and fight against corruption, on the annual basis, our State inspectorates have made thousands of inspections on economic—social matters; made examination, verification, conclusions and recommendations to the heads of the same-level administrative organs, assisting them to deal with thousands of complaints and denunciation cases under their authority.

The outcomes from the performance of inspection over the last years have been highly valued by our party, Government and administrations at all levels, making an important contribution to the raising of State management effectiveness and efficiency, the perfection of management mechanism, laws and policies; discovering the wrongdoings for handling, and at the same time preventing and constraining the new-raised ones, preventing and constraining corruption and the negative activities.

It is concluded from the fact over the last years that the inspection direction works and inspection results have contributed to the improvement of public administration on the two following aspects:

1. The performance of inspection ensures the serious implementation of State laws, guidelines and policies as well as decisions by Government

and the governments at all levels. Therefore, one of our priorities is to enhance the assistant activities for strengthening strong local administrations, whereby State guidelines and policies can reach to the citizen on time, for example:

- The inspection of the implementation of "the programme for assisting the remote and specially difficult communes" (also called as program 135) in the national scale has not only helped examine and boost up the implementation but also contributed to assisting those remote communes to overcome difficulties, avoiding the wrongdoings, so that they can reach the program target of that "the commune has the traffic routes, schools and healthcare department; the people have jobs and their lives are improved". This program has been considered as effective by our Government and people and also highly remarked by a number of United Nations organizations and the donor countries for the program.

- In 2001, we set up a great deal of inspection teams to inspect responsibilities as ruled by law, handle citizen's complaints in many localities, assisting administrations at all levels to solve those matters lawfully, and this has gained the consent of and been highly appreciated by the citizens.

2. The performance of inspection plays an important role in strengthening the strong local administrations.

One of the outcomes from inspecting more than 1,000 communes and wards characterising for localities in the year 2000 was that whereby the Government and provincial administrations could exactly point out the good and bad points in the organization and operation of People's Committees at commune and ward levels, as well as the good and bad points, ethical features and working capacity of the core officials at the commune level, therefrom setting up plans and measures for resetting the organization and working styles of those People's Committees and handling, re-ar-

ranging the core commune-level officials. Thanks to this, many commune-level administrations and team of core officials have been re-strengthened and re-arranged, making them closer with the people and being trusted by the people.

Ladies and Gentlemen

Today, I am very happy and honored to attend this 7th Asian Ombudsman Conference. At the beginning of the new millennium with the international tendency of more and more expanding cooperation for development, Vietnam State Inspectorate will do its best in the cooperative relationship with the Asian Ombudsman Association and with IOI as well, contributing to the development tendency of peace, friendship, cooperation and development, equality among nations and conformity with each country's laws and cultural traditions in the region and the world. We consider this Conference as a forum for us to find out the best form of cooperation, assisting each other through the effective bilateral and multilateral forms, contributing to the promotion of friendly relationship and for the prosperity of each country and of the whole region.

May I wish our friendship, solidarity and cooperation develop more and more.

May I wish for the success of the Conference.

May I wish all of You good health and happiness.

Thank you very much.

Confronting Corruption as an Element of National Integrity

By Abdullah Farwan*

Mr. President, Justice Mohammed Basher Jehangiri Wafaqimohtasib' Ombudsman of Pakistan,

Mr. Vice President Seyyid Ebrahim Raisee Ombudsman Head of General Inspection of Iran

Honorable Mr. He Yong

Minister of Supervision in the People's Republic of China

Your Excellencies: Ombudsmen of Asian Association

My Colleagues

Respected guests,

Ladies and Gentlemen

Assalamo Alaikum wa Rahmatollah , May peace be upon you all

Introduction

At the beginning, I am very honored and highly gratified to be invited to attend and take part in this noble conference in the land of great civilization and one of the world wonders. I am equally happy to have this great opportunity to visit this great country for the first time in my life.

In this occasion, I would like express our highest appreciation on behalf of my colleagues in the Yemeni delegation and myself for the warm reception and hospitality that we have enjoyed since the beginning of our

* Professor of Yemen.

visit.

Ladies and gentlemen, I do not need to remind you that we are entering into a new era. Our Association is now celebrating its 7th birthday. This is the 7th assembly of our forum. It is the second assembly in the 21st Century. It means that we have to cope with the ever – changing world. It means, today, we have to shape our future.

It is really important to look into the future. This would require a clear vision, mission and strategic goals. Consequently, we will have to think of all ways and means to reach those goals. In the last two years, our organization tried to introduce some initiatives in this direction to the 5th and 6th Assemblies of our Association. The intention was to revise and amend the Bylaws. However, the Board of Directors of our Association wisely concluded that we should not get into amendments of our bylaws thus soon.

Ladies and gentlemen, The world is facing a number of major problems that could change the whole world drastically. Terrorism has a double fold effect. Connected to that is money laundering. That aspect of the recent development has made the problem even more complicated. Now, it seems that the whole world is involved. In our Asian countries, where it constitutes the highly populated area, enduring a lot of corruption related activities. For example, in a country like ours we have found two major causes for failure of public enterprises. That is to say mal – management and corruption are the two main causes of those failures. About more than 60 enterprises are due to be privatized as a result.

An overview of the Global Corruption Report 2001, Transparency International

[In this occasion, I thought that it would be of benefit to all of us to share with you some of the information that I have come across in the

Global Corruption Report 2001, Transparency International, TI.

The Global Corruption Report 2001 constitutes the first of a series of reports on the worldwide state of corruption. It reflects a closer look of selected experts at issues such as corruption in party funding, money laundering and the diamond trade.

It concludes that: corruption skews democratic political process. It distorts trade, misdirects investments and limits economic growth. Above all, corruption denies people around the world a better quality of life, thereby hitting the poor hardest.

In this report TI defines corruption as the misuse of entrusted power for private gain. This includes public and private sector corruption at petty and grand levels. It warns that corruption does not respect national boundaries. It deepens poverty around the world by distorting political, economic and social life.

TI calls for all those engaged in the fight against corruption to continue to expose the ways that work and promote remedies and success that turn the tide around. That would require sustained vigilance.]

Islamic View

In this context, I would like to share with you some of the Islamic concepts in fighting corruption. It is concentrated on the basis of Islamic comprehensive view to the needs of every citizen in the society and its assurance of social cooperation and economic stability in a way humanity has not experienced in many ages. Even the most recent economic systems have not reached that level. It has made every individual as a watchdog of himself. He/she does not claim anything that does not legitimately belong to him/her or claim anything belongs to others. They only have those things that they legitimately deserve.

The individual citizen and the society at large work together in an in-

tegrated and cooperative way thereby creating a spirit of love and respect between members of the society regardless of their race, social status, religion and sex. This ideology was the practice of every day life of people in the just Islamic State.

In addition to that, Islamic religion has introduced a number of preventive and corrective actions to compact corruption. The preventive procedures constitute the following:

1. To raise individual citizen on good morale/behavior and values to always be in favor of good deeds,
2. Careful and good selection of civil servants with due regards to capability, honesty and integrity,
3. Dedication of the civil servant to his public post,
4. Secure sufficient income for the civil servant and his dependents,
5. Declaration of personal property prior and after holding the public post,
6. Prohibition of accepting gifts and /or bribery,
7. Prohibition of appointing incapable individuals or those who are eagerly seeking public posts.

On the other hand, the corrective actions constitute the following:

1. Punishment of those who refuse to pay entitlements of the state (taxes or the like).
2. Punishment and/or disengagement of those civil servants found guilty in accepting bribery, and
3. Punishment for any embezzlement and fraud in collection of public money/funds.

Moreover, along those lines, the Yemeni legislator has introduced three kinds/levels of protecting of public funds:

- ◆ Protection of criminal – related act,
- ◆ Protection of civil – related act, and

- ◆ Protection of administrative – related act .

Further more, the legislator has delegated the responsibility of implementing these systems to a number of relevant authorities . These would include the following:

- ◆ Judiciary branch ,
- ◆ Central Organization for Control and Auditing (COCA), the supreme audit institution of the Republic of Yemen ,
- ◆ Internal auditing units, and disciplinary councils established within government agencies and departments/ ministries, and
- ◆ Parliamentary councils, local councils and political parties and/ or organizations .

Some important outcomes of the Global Corruption Report 2001

Now, let me take you back to the Global Corruption Report 2001 to share with you some of the conclusions outlined thereto .

1. *There are a number of lessons that we could learn out of that report :*

A – Corruption is continuing to capture headlines everywhere, and people are becoming more aware of its disastrous consequences .

B – Corruption scandals dominate the news and public discussion of corruption . The good part of this is that corruption is attracting more public scrutiny than ever before .

C – An increasing number of elections have centered on the fight against grafts . In the US government, for example, Senator John McCain won a national following in the 2000 presidential elections due to his critique of “soft money” . The Global Corruption Report 2001 looks at the possibility of international standards to this problem .

2. *There are signs of increasing commitments by political leaders to anti – corruption reforms , but national anti – corruption programmes have had mixed results .* The increasing prominence of corruption in public debate has pushed leaders, both new and not so new, to try and address it. In our country, our President of the Republic of Yemen lately strongly urged our organization COCA to exert all the necessary efforts to fight against corruption. He pledges to support our organization in its decisive battle against corruption. In turn, our organization has taken a number of measures to respond to that high order. We urge our staff to exert even greater efforts in addition to improvement and development of methodologies and enhancement of capabilities. We had to prepare a complete and integrated program to visualize the role of COCA in its fight against corruption.

Another good example of increasing concern in fighting corruption comes from the host country of our conference. In the People's Republic of China, the authorities declared war on corruption thereby gaining the respect of the whole world. Huge schemes to defraud the state have been exposed and brought to court. Severe punishment against offenders has been applied. We trust the Chinese government may yet find a way to apply the lessons of its success.

3. *Business has began to address corruption and has made efforts to introduce new standards to identify and prevent it .*

Efforts to stamp out money laundering now focus on introducing transparency and making the rule and requirements in banking more consistent in all jurisdictions.

4. *On balance , the international community's efforts to fight corruption have had a positive impact .*

However, it demonstrates that remedies promoted internationally but applied locally without sufficient caution can present opportunities for in-

creasing corruption .

At the end, I can say that the problem of corruption is enormous and varied, affecting all societies, rich and poor. By demonstrating that, bad governance, disaffected citizens and poverty are corruption's inevitable outcomes . The fight against corruption must not be passing fad, but it has to be sustained if it is to be successful .

When assessing what has worked in the fight against corruption, the necessary of coalition building is apparent . Linkages must be made within and across societies both to reduce incentives to bribe and to enforce anti - corruption commitments

Confronting corruption is only one of many elements of national integrity .

Fully Performing the Duty of Administrative Supervision to Build a Clean and Industrious Government

By He Yong*

Distinguished Guests,

Ladies and Gentlemen, Comrades and Friends:

To strengthen the construction of a clean and industrious civil service and build an uncorrupted, highly efficient government is a common task for all administrations across the world. The Chinese Government has always paid great attention to building a clean and industrious civil service, considering it an important prerequisite to consolidate the people's government, to maintain the general situation of reform, development and stability, and to serve the people wholeheartedly. Since the beginning of reform and opening to the outside world, we have in the course of economic development and modernization firmly promoted the construction of a clean service and the fight against corruption, and tried our best to build a clean, industrious, pragmatic and efficient government. The supervisory bodies of China have performed their duty entrusted to them by the Chinese Constitution and other laws. Their supervision over administrative departments and functionary has helped build a clean and industrious government. Now, I would like to introduce to all fellow delegates and friends about Chinese supervisory bodies and the work they have done.

* Minister of Supervision of the People's Republic of China.

✓ 1. **China's supervisory bodies have fully performed their duty and played an important role in building a clean and industrious government.**

The supervisory institutions of China are one specially designed to perform the duty of supervision. They oversee according to law whether all state departments, civil servants, and other people appointed by state departments appropriately carry out state laws, regulations and government's decisions and orders. The supervisory bodies are responsible to keep government orders move smoothly, to safeguard administrative disciplines, to promote the building of clean and honest service, to ameliorate administrative management, and to improve administrative efficiency. Supervisory institutions at all levels have worked actively and effectively for the establishment of a clean and industrious government.

✓ (1) *Making strict rules for functionary and putting administrative actions under control.* Our government exercises strict supervision over administrative institutions and their functionary. The government has made for civil servants norms of running government in a clean and honest manner, with Norms of Clean and Honest Services as the most prominent one. We put the behavior of administrative departments and civil servants under control through strict education, strict management and strict supervision. Government at all levels and their supervisory bodies have kept on educating the civil servants about running government in a clean, honest and industrious manner, about the tenet of serving the people wholeheartedly and about the punishment on violations. We have selected some prominent problems, and made special efforts to resolve those like leading officials buying luxurious cars at public spending or taking luxurious cars, going abroad for sightseeing at public spending and receiving gift money

and stocks. We have worked very hard to solve such problems as the spouse or offspring of leading officials running business, which is banned by discipline. Supervisory departments at different levels have, in collaboration with law – enforcement departments, regarded it as their main task to investigate and deal with discipline – breaching or unlawful cases, focused efforts on cases involving with leading government departments, law enforcement departments, judicial departments, economic management departments and leading officials above county level, especially the cases relating to graft, bribe, misappropriation, breach of duty or malfeasance, perverting the law and degeneration and punished corrupt officials severely. Governments at all levels and their supervisory departments have also strengthened the construction of administrative style, and have effectively corrected malpractice in all departments and professions. They have specially handled the issue of arbitrary charging, arbitrary apportion of expenses, and arbitrary fines. As a result, they have stopped some administrative departments and functionary from working in a careless manner and infringing upon interests of the people. Prominent problems, which people complained most, have been resolved.

✓ (2) *Strengthening administrative supervision and promoting the practice of running government according to law*. Government departments and their functionary have problems running government mostly because they did not behave according to regulations, and abused their power. To solve such problems, an important approach is to promote the practice of running government according to law and regulations. That means to ameliorate administrative management, and to strengthen supervision by establishing a power mechanism of proper and rational disposed structure, well – organized procedure and effective control. Supervisory departments in different areas have stepped up supervision and inspection over administrative departments and their functionary, especially those prone to

abusing power for personal gain or trading power with money. They have resolutely corrected unlawful behaviors, and the level of running government according to law is raised.

✓(3) *Exercising supervision over law – enforcement to ensure all government orders move smoothly.* To supervise over law – enforcement is both a primary duty and an important way for supervisory bodies to ensure that laws, regulations of the country and government decisions be implemented. Over the past several years, in connection with the central task of the government and the implementation of major government decisions and measures of reform and development, the supervisory departments have stepped up their supervision over how administrative departments and their functionary have carried out those decisions and measures. They, together with other relevant government departments, have in particular conducted law – enforcement supervision in areas of construction engineering, restructuring of grain circulation system, rectifying and standardizing market order, and the use of special funds including bond capital, social security fund and disaster – relief fund and goods. Malpractices were corrected, and government orders were carried out. The supervisory departments actively participated in the handling of major accidents, and have looked into the responsibility of leading officials who have caused great losses of life and property because of their bureaucratism, breach of duty or malfeasance. Supervisory institutions in some areas have exercised administrative efficiency supervision by establishing systems to examine the outcome and efficiency of functionary, to hear complaints about administrative services, and to inspect administrative efficiency supervision. Through these systems, they have effectively resolved problems with administrative departments and functionary, such as procrastination, lower efficiency and shifting responsibility onto others. The working efficiency and quality of service were improved as a result.

✓ (4) *Trying to fundamentally prevent corruption through pioneering reforms*. To prevent corruption arising from incomplete system and mechanism is a fundamental solution to enhance clean and industrious government. It is also an important aspect of administrative supervision. Over the past several years, China's supervisory institutions have addressed corruption problem through reforms in systems and mechanism. The army, armed police forces and law - enforcement institutions are no longer allowed to run business. The separation between Party and Government departments and their affiliated companies has completed. Under a new "collection and spending in two separate lines" system, government departments above the county level, when they collected charges or fines, can no longer use the money they collected. The system of administrative examination and approval is now being reformed. The range of projects to be examined and approved will be narrowed by a big margin, and the process of examination and approval itself will be standardized. The supervision over treasury capital has increased. Reforms like adopting the budget system, the centralized collection and spending system of the national treasury and the government procurement system have produced preliminary results. The personnel system reform is also under full swing. More and more civil servants are openly selected and promoted in a democratic way and through competition. As a result of all the efforts, the construction of a clean and honest government and the fight against corruption are being conducted more effectively.

✓ **2. China's supervisory institutions have paved a way of Chinese characteristics to effectively push forward the building of a clean, honest and industrious government.**

Starting from the specific national conditions of China, China's su-

pervisory institutions have studied the rules and characteristics of supervision under the socialist market economy. They have tried to combine their supervisory work with the work of government, with economic affairs, reform, and with the interests of the people. They have tried to work more effectively and accordingly. They have paved a way of Chinese characteristics to push forward the building of a clean and honest government.

✓ (1) *Carrying out their duty around the central task of the government to ensure that major government decisions and reforms will be implemented.* China's supervisory institutions have, starting from the overall work of the government, commanded a correct approach for their work. They considered their work from the viewpoint of the government and decided key working areas in connection with the central task of the government. They considered the implementation of major government decisions and reforms, and exercised supervision accordingly at the forefront of reform and economic construction. They conducted special inspection and investigation, and timely corrected any unlawful or discipline - breaching actions to ensure that all task of the government will be finished smoothly. They have helped create a good social and political environment for China's reform, opening to the outside world and economic construction.

✓ (2) *Combining the supervisory work with the daily work of government institutions.* China's supervisory institutions are closely - connected to the daily work of the government. They took use of this advantage, and played their dual - role of promoting both clean and honest government and industrious government at every level of administrative management. In another word, all departments and all levels of governments were urged to ameliorate their management and improve their management level with the aim that all government institutions and functionary will perform their duty cleanly, honestly and effectively.

(3) *Insisting on supervision in a comprehensive way.* China's super-

visory institutions have dealt with properly the relations between the symptoms and the root cause of corruption. While severely punishing corrupt functionary to stop the spread of corruption, they have spent more efforts to deal with the root cause of corruption. Dealing with corruption cases and with their root causes help each other. Supervisory institutions and relevant government departments have kept close coordination, and in the process of institutional reform and change of government functions, established and ameliorated power supervision and control mechanism to wipe out the soil and conditions for corruption.

✓ (4) *Strengthening the legal construction for clean government and ameliorating supervisory laws.* China pays great attention to the legal basis for building a clean and honest government, and constantly ameliorates laws and regulations on civil servants supervision. Over the past several years, the Standing Committee of the National People's Congress has made the Administrative Supervision Law of the People's Republic of China, the Ministry of Supervision has made the Temporary Measures for Trial of Discipline - Breaching Cases by Supervisory Institutions, the Regulations on Coordination Between Different Supervisory Institutions in Investigating and Handling Discipline - Breaching Cases, the Temporary Measures of Withdraw System in Supervisory Institutions, among other laws and regulations. So far, a legal framework, with the Administrative Supervision Law as the core and basis, has formed and provided legal guarantee for China's supervisory work.

✓ (5) *Besides supervisory institutions, Relying on the supervision of the whole society.* The broad masses are the dominant forces in the construction of a clean and industrious government. China's supervisory institutions pay great attention to the supervisory role of the broad masses, and have tried to combine the supervision of specialized institutions with that of the society with the aim to effectively oversee government institutions

and their functionary. Supervisory institutions constantly ameliorated the system of reporting through letters from the broad masses, and try to find clues from those letters. They have also dealt with all problems reported in the letters timely. China's supervisory institutions generally have specially invited ombudsmen, who are mainly people of influence from China's non-Communist parties, people's societies and other trades. The specially invited ombudsmen oversee the supervisory institution itself. They oversee both how those under supervision perform their duty and how supervisory institutions enforce laws or disciplines. Currently, a new system of transparent administration in local government institutions is being promoted. This new system enables people to get better service and to supervise those institutions. The new system provides people with the right of knowledge, participation and supervision.

◀ (6) *Building a high - quality team of supervision and an effective working mechanism.* Under the leadership of the government, China's supervisory institutions have strengthened coordination with all other departments of the government, and played their supervisory role with the support and participation of the broad masses. The supervisory institutions have stressed the build of its working team through daily work. They have greatly helped their working staff to enforce law and discipline more effectively, update their ideas, ameliorate their working style, enrich their knowledge, arm their mind with all human civilization, new technology and new knowledge, with the aim of improving their general quality.

3. Prospects of China's Administrative Supervision and Anti - Corruption Work

China's construction of a clean government and struggle against corruption are conducted under the environment that reform is being deepened, opening to the outside world widened, and economy grows steadily.

Under the joint efforts of the Party, the Government and the whole society, the construction of a clean government and the struggle against corruption have been conducted in a healthy and orderly way. Evident results have been scored, and providing a strong political guarantee for China's social stability and economic development. Practice has proven that the attitude of our Party and Government on clean government construction and anti - corruption struggle is resolute, the guiding principle correct and the steps and measures effective.

Starting from the new century, China has entered into a new development stage of building a comprehensively comfortably - off society and accelerating its modernization drive. The Government faces many new problems and challenges in its daily work. To continue the construction of a clean and industrious government remains an important guaranteeing factor for China to seize opportunities, to meet challenges, and to continue its reform, opening and modernization drive. China's supervisory institutions are fully aware of the importance of building a clean and industrious government, and have a strong sense of their role in the country's clean government construction. They will adapt themselves to the new situation, fully perform their duty, advance with the time, and make pioneering exploration of new and effective ways in overlooking government departments and their functionary under the socialist market economy. They are ready to work more vigorously and do all their works well. Currently, the construction of a clean and industrious government is gaining increasingly favorable environment as the country's reform and opening are being conducted to a higher level, socialist market economic structure being improved and democracy and rule of law strengthened. Under the leadership of the Party and the firm support of the people, with the coordination of all relevant departments and years of experiences, we supervisors are fully confident that the construction of a clean and honest govern-

ment and the struggle against corruption will continue to have new progress, and we will convince our people with concrete results.

China's supervisory institutions pay great attention to the exchange and cooperation with foreign counterparts. They are willing, while keeping in mind Chinese specific conditions, to learn valuable experiences and practices from their foreign counterparts in the areas of building a clean and honest government and the anti - corruption struggle. China's supervision departments, in collaboration with some other departments, have successfully hosted the 7th International Anti - Corruption Conference in Beijing. They have established working relations with their counterparts in more than 70 countries and regions across the world, and are ready to expand exchange and cooperation with all supervisory institutions in other countries. They are ready to discuss for ways to strengthen supervision and to curb corruption. The current AOA conference has provided us with an excellent opportunity of exchange and cooperation. We will consolidate all existing relations with our counterparts in the world, and still more, enhance our cooperation. Let us join hands together, and make our due contribution to the construction of a clean, honest and industrious government.

Thank you for your attention.

Strengthen Administrative Supervision and Anti – corruption

By Qingang *

Promoting the construction of a clean and transparent administration is one of the important responsibilities of Supervision Agencies, granted by *the Law on Administrative Supervision of People's Republic of China*. Strengthening administrative supervision is critical both to holding administrative power within the law, and boosting the campaign of anti – corruption. In recent years, Under the leadership of China's Ministry of Supervision and Beijing Municipal Government, all of the Municipal Supervision Agencies are devoted to the responsibility of Administrative Supervision and makes good achievements theoretically and practically.

1. Full awareness of the special responsibility of Administrative Supervision

Supervision Agency is very important, because it takes the special responsibility to supervise all Administrative Departments and staff. Its responsibility is different from other agencies in whole supervision system, including the supervision of National People's Congress, judicial branches, procuratorial branches, audit agencies, etc. Supervision Agency is a special agency. The special functions of Supervision Agencies are mainly embodied in the following aspects:

First, as an important department within the government, Supervi-

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sion Agency is close to economic issues. It can get better information of important decision - making from the government directly. It's the Supervision Agency's responsibility to carry out special tasks aimed at public administration, help to establish scientific, open and institutionalized decision - making governance.

Second, strengthening Administrative Supervision can inhabit the supervision into decision - making, execution, evaluation, feedback and punishment in administration. So each part of governance could be supervised effectively, and the pre - , mid - and after - supervision could be combined properly.

Third, as functional department in charge of supervision, Supervision Agency can devote itself to supervising decision - makings, important projects, major tasks and key steps of administrative management, ensuring all agencies to carry out powers strictly by law. The special function of Administration Supervision is indispensable to meet the need of inspection, check and correction in administrative behavior of power enforcement.

Beijing Municipal Supervision Agencies at all levels pivot supervision on promoting administrative enforcement legally and strictly by law. To ensure thorough and smooth enforcement of laws and regulations, we focus supervision on two aspects of law enforcement. First, we go to the front of reform and economic development, strengthening inspection according to the actual needs of important government decisions and reform policy. Once the problems propping up, we can detect and correct them timely, or issue Supervision Notice, Supervision Suggestion or Supervision Decision when necessary. We crack down on those severe behaviors that break law or regulations such as bureaucracy and negligence of duty. Second, we help Beijing Party Committee and Municipal Government establish an system of Responsibility - Distribution to specify annual anti - corruption

tasks, and distribute the tasks among municipal agencies. Meanwhile, the supervision on major projects set by Municipal Government, such as Comprehensive Improvement of Environment, Air Pollution Control, Construction of Granary for Agencies of Central Ministries, and Repair & Rebuilding of Tiananmen Square, etc.

Moreover, corruption investigations and punishment have been stepped up. One of our efforts is to strengthen the investigation on the urgent steps of administration and key nodus of government where corruption are likely breeding and spreading. First, we reinforce investigations particularly on the "three kinds of agencies and one branch" including Party and Government agencies, judicial agencies, public administration agencies, economic and commercial branches, and High officials above county and division level, as well. Our investigation goes deep into the sectors of finance, securities, real estate, personnel management and judicature, etc. Any malpractice, bribery and defalcation of the agencies or officials could get harsh punishment. Thanks to the bravery, courage and hard-work of the staff in our Supervision Agencies, investigations on a quite good number of important corruption cases are concluded. Second, strengthening leading system and work mechanism of corruption investigation, a smooth - operated and efficient commanding system established, the depth and width of case investigation expanded annually. Third, according to the rules granted by *the Law on Administrative Supervision of People's Republic of China*, We develop effective ways to cooperate with other departments such as Audit Agencies, Industrial & Commercial departments, Tax Agencies, Customs Agencies, etc.

2. Emphasizing supervision on daily work of agencies

All the facts of anti - corruption prove that emphasis on daily work of agencies is of great significance to fighting corruption. High efficiency of

agencies can reduce corruption or wrongdoings. Whereas dilatoriness, poor efficiency and buck passing in administration breed a lot of corruption, and these defects in administration can essentially harm the interests of people if not tackled timely. So Supervision Agencies are both responsible for hearing complaints and accusations against government agencies or staff and investigating those activities such as bribery, power abuse, extravagance and waste, and as well responsible for supervising the daily work of agencies and staff. By inspecting and correcting bureaucracy and negligence of duty, Administration Supervision can strengthen administrative management, improve efficiency, and implement all-around supervision on corruption or other wrongdoings.

In the recent years, Beijing Supervision Agencies at all levels hold the principle to give special efforts both to supervising daily work of agencies and fighting corruption. We put "Efficiency Supervision" on our top priority. In 1995, the Supervision Agency of Haidian District took the first step in Efficiency Supervision, aimed at the hotspots concerned by the people, such as deficiency, poor service quality and bad work style in some government agencies. They initiated different methods to evaluate and inspect government service quality and transparency of administration procedures. Consequently, the work style of government agencies and staff are changed, efficiency and service quality improved. We summed up Haidian District's experience, and called on other Districts and Counties to carry out Efficiency Supervision immediately. Beijing Municipal Government pays special notice of Efficiency Supervision. Mayer Liuqi heads this project to press it forward. Our projects attract Central Party Discipline Committee and Ministry of Supervision's notice as well. *The Administrative Efficiency Supervision Seminar and Exchange Conference* was held by Ministry of Supervision in Haidian District in 1997. Representatives from other Provinces, Autonomous Region and Municipalities attend-

ed the conference and learned the Haidian's experiences. Our most important experience of Efficiency Supervision is that emphasis on supervising daily work of agencies or staff can detect management defects or noduses in administration, meanwhile, the supervision mechanism is fully set up, supervision system strengthened, and corruptions reduced effectively. Moreover, corruption investigation is stepped up. We are now planning to issue some relevant rules and regulations to improve Efficiency Supervision, and bring it to a higher level.

✓ 3. Focus on radical measures and rules to control and prevent corruption

Central Party Discipline Committee and Ministry of Supervision have adopted strategy to control and prevent corruption radically since 1993. This guideline is both the combination of historical experience in anti-corruption and innovation theoretically, and the sum-up of the anti-corruption history and experiences practically home and abroad. Sticking to this principle, we shall not only deepen the investigation and launch special supervision project, but also tackle the major contradiction of anti-corruption, researching the radical reason of corruption and paying attention to the defects or loopholes breeding a lot of corruption in the administration mechanism and management systems. The supervision agencies have special function in anti-corruption because they are close to economic issues, and they can get deeper recognition for the radical reasons of corruption. Therefore, Supervision Agencies can expand their supervision into the daily work of the government departments, focusing on the radical reasons, initiating effective reform measures and policies to reduce and control corruption.

In our supervision, committed to the requirements issued by Central Party Discipline Committee and Ministry of Supervision, we pivot supervi-

sion on radical reasons of corruption, and initiate a lot of reform projects to control and reduce corruption. Our projects include Reform Policy of Government Approval System, Financial Management system, Cadre and Personnel Management System; Inhibiting Party and Government Agencies to Run Economic Entities or Business Enterprises; "Division the Ways of Receipt and Expenditure" in Administrative Charges, Fees, Fine or Confiscation. By these projects, we improve and strengthen the rules and regulations on administrative management, reducing and preventing corruption radically and effectively.

Especially, we put the inspection and supervision on Government Approval Reform on our top priority. We inspect with unified plans, comprehensive examinations, and issue Approval Procedure regulations and punishment measures, to reduce and prevent transgression, illegal approval, prolonged approval or wrong Approval, etc. In the year of 2001, we issued *Suggestion on Further Setting Up Comprehensive Regulations and Punishment Measures on Government Permission and Approval Procedure*. According to this regulation, every agency in charge of approval or permission is required to establish its own regulation and punishment measures on wrongdoings in approval or permission.

After years of efforts, to the year of 2000, 454 government approvals, accounting for 47.1%, are cut or transferred to lower levels. In 2001, economic approvals get further cut by 30%. "One - stop" Approval Office opened in every District and County. Beijing Economy and Technology Development Area became the first "Fee - free Zone" in Beijing. We are now researching e - government and learning from international experience to enforce the regulations from all aspects on Government Approval Procedure, including jurisdiction, fee standards, approval time, Approval site and Approval details. These active supervision measures, make Government Approval Procedure further normalized, and the

publicity and transparency of Municipal Administration will be further improved.

In April of 1998, Beijing municipality adopted public bid and government procurement, on the principle of "Open, Fair, Just, and Efficient". Learning from foreign and domestic experience, we developed 13 regulations including *Ordinance of Beijing Municipal Procurement Procedure*, etc., pushing the government procurement onto a way of institutionalization and regularization. In '99 - Beijing Hi-tech Industry International Week, Beijing Municipal Government Procurement Section was set up as a standing project, held annually. Since 1998, 3,017 government procurement projects are accomplished, covering 4.23 billion RMB of fiscal funds, or 3.38 billion RMB contract funds, 340 million RMB or 7.9% saved. Because of the economic and social efficiency of Beijing Government Procurement, People's daily, China Daily, Beijing Daily, China Finance and Economic and Hongkong Phoenix TV report the procurement projects of Beijing Municipal Government. In order to meet the new circumstances after China's entry into WTO, Beijing Municipal Government issues an ordinance that all the software bought by the agencies or institutions must be original software, in December of 2001, to give further protection of intellectual property, which is echoed home and abroad.

Nowadays, our country is in a time of economic system transition, and new challenges and problems are emerging in the changing circumstances. To do a better job in a harder environment, administrative supervision should advance with the time. We should bring Administrative Supervision to a new and higher level, and make greater contribution to combating corruption, and build up a clean, efficient and transparent government for our people in the new millennium.

The Basic Principles of Executing Administrative Supervision

By Liang Wenzhong*

Administrative supervision is a key link in the process of administrative management. As mentioned in this article, it particularly means that a supervisory organization utilizes this measure to supervise the state's administrative organization and governmental staff's administrative conducts, so as to guarantee the legality, rationality and effectiveness of these conducts. The administrative supervision, as a specific dimension, internal supervision, to guarantee the administration in law, is a significant link to inspect, guard and rectify the deviated conducts of utilizing administrative power in the internal of government organizations, thus playing a dominating role in the enforcement of administrative supervision.

With the establishment of socialist economic market system step by step and its improvement, and especially China's entry into the WTO, the economic mode and measurements managed by government need improving. The improvement should be done according to the basic principles of administrating legally, scientifically and rationally, The step of making government administrative conduct to be more legal, standard and scientific will farther speed up. Under such circumstances, it is of extreme necessity and significance to strengthen the administrative supervision in real earnest. The administrative supervision is the important duty of supervision organization at different levels as well as the inexorable trend. The task is

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taking administrative supervision as important means, regulating in law and restrict the operation of administrative power, guaranteeing government decree unblocked, upholding administrative discipline, promoting the ethics construction, and improving the administrative management. And the administrative efficiency requires to establish an administrative management system that is high - efficient in business, coordinate on operation, and standard on conduct. To bring the administrative function into full play can broaden the field of the administrative supervision task on a certain sense, especially on the restrict to power activities, administrative supervision can effectively contain power abuse and power alienation, which is an effective way to prevent and harness corruption from the source.

Administrative supervision is a complex systematic project, involving a multitude of fields in administrative management and a great deal of problem in depth, it is also restricted by many subjective and objective factors and conditions. Therefore, in the process of executing administrative supervision, the supervision organizations not only abide by the inner law of administrative management and conduct criteria, but also look to several principles as follows:

✓ 1. Principle of operation by law

Supervision organizations at different level must execute the supervision function within the scope defined by state laws, regulations and related rules. They try to supervise by laws, dispose affairs by laws, guarantee the conduct of administrative supervision on the law track all along and prevent the supervising from the violation and excess of power. It is the base to do the administrative supervision well and the directory guidance to implement administrative supervision activities. Our state power is derived from the law, and both the organs of state power and staff's powers, functions and duties are all defined by laws and regulations. Hence, ad-

administrative supervision must be done under the law to guarantee its objectivity, authority and stability. The supervision organizations at different levels must carry out their supervision activities in term of duty and power that is endowed with constitution. Administrative supervision laws and the other administrative supervision regulations and in accordance with legal procedure, achieve to select the project on sound ground, supervised by laws and regulation, only by this way can make supervision activities reasonable advantageous and moderate. It is not allowed to do deeds blindly, do as one pleases, or violate the operation rules. Otherwise, not only the anticipated goal might be failed, but even the supervisor becomes a defendant. This requires that the supervisors must take more note of laws and regulation study, increase the law concept and the ability of disposing affairs by laws. Meanwhile, it requires to conclude experiences, establish and improve related working procedures, check – up criteria and methods of praise and punishment about administrative supervision, so as to make the working systemized and standardized.

✓ 2. Principle of enforcement

The power of supervision organization entitled by state laws is protected by law and possesses lawful force. The supervision organizations executing the administrative supervise by law represent the nation's will, and what they decide and suggest possesses legal enforcement. As supervising to conduct of administrative management, the supervision organization is to re – manage the social affair managers, to re – supervise social economic supervisors in essence, they possess the highest levels of which legal power restricts the administrative power. The supervisory object ought to bear legal liabilities, when it refuses to take the legal duties without proper reasons. Only the mandatory administrative supervision is firmly upheld, can the effectiveness be guaranteed. In the view of this principle,

the administrative supervisory subject ought to possess a certain authority; the supervisory object ought to possess a certain openness; both the subject and object and between ought to possess a certain reciprocity. In order to stick to the mandatory administrative supervision, a legislative work should be further strengthened, the law basis for administrative supervision and operation procedure should be improved, and the law status of administrative supervision should be enhanced. Supervision organization's certain economic punishment power, special participation power and special seal-up power in the light of the situation and need are entitled to fortify that law restricts law, power restricts power.

3. Principle of openness to the public

The target of administrative supervision executes public right, one requirement of the public right is to be responsible to the public. To achieve this point, the power activities ought to be brought into the open to a certain extent. The power will lose the credibility, if the power lacks transparency. It won't mention to suppression without openness of power activities. So, the transparency of power operation is the essential prerequisite and condition of supervising to power. As an important composition of administrative management activities, the administrative supervision ought to observe the requirement. That is to open the administrative supervision measure, especially the punishment basis, procedure, and violation of power operation by those to be supervised to the public according to prescribed scope and condition, and let the public supervise the implementation of administrative supervision measure. Depending on the social public power, it can restrict the interference from different aspects, reduce the obstacles and pressure in the process of supervision; on the other, it can urge those that are supervised solve the existing problem quickly and thoroughly, to make the supervisory function into implementation. Tianjin

spreads the policy of making village and factories supervision open in the recent year, as well as government department at different levels, public service industry and institution organs making administration affairs open. They publish their problem - tackling system, administration implementation and activities and significant decision procedure on the administration publishing board, administration line, and press media. The supervisory organization sets up a complaint center for supervising administrative efficacy, opens the complaint phone number, and accepts and hears cases from the mass directly, then feedback the problems in time to the related department and urge them to rectify, reform and open the measures and results to the public to hear the mass opinions. In this way, the close combination of the supervision from mass, society, press and government supervision can restrict the obscure operation of power, and promote the transformation of government function and working style.

4. Principle of service

Adhere to serving governmental central work is the goal as well as the important principle of administrative supervisory task. At the present stage, the governmental central task is to set economic construction as the core, expand the opening - up and reform, accelerate the economic development, and maintain social stability. In the administrative management, the supervisory organization should work around the central task, and solve those big problems that are disadvantageous to the reform, even hinder the reform, development and stability, and should take necessary supervisory measure, rectify and prevent unhealthy administrative conducts to guarantee the implementation of significant policy decision and reform measures made by the Party Central Committee and the State Council. The supervisory organizations are required to go to the front line of economic construct. They participate to rectify and standardize market economic or-

der, do careful research on those problems produced in the implementation of significant policy decision and reform measure, then take the supervisory means in time to solve them, create a favorable condition for economic development. In recent years, completing unified supervisory task assigned by Supervisory Committee, Tianjin supervisory organizations also actively work around the significant policy and measure promulgated by municipal government. Tianjin also works around the series of main tasks concerning the Tianjin development and the interest of the mass such as key construction projects, the remodeling of old and shabby houses, the harness of city environment, the crackdown of the fake and shoddy commodities, the stopping of unreasonable charge to enterprises, and assistance to the impoverished. By means of supervision Administrative, supervision of efficiency, and supervision of inspection, they establish the selected projects, strengthen supervision, urge related departments to formulate management measures, stop up loopholes to avoid or retrieve economic losses. The practice proves that the administrative supervision can not only gain supports from all fields, but also maintain vigorous, provided it keeps a foothold of serving the government central work all along.

5. Principle of actual effect

Administrative supervision should take its actual effect as the ultimate goal. All that determines the train of thinking and the item and formulated measures should base on the principle. The supervision should be connected with different key tasks, take the notice of hot issues with which both leaders and the mass concern, and emphasize the administrative power in supervision. By looking into the power structure, power subject, power operation and administrative effect, they find and rectify the deviations and errors in the administration decision policy, administrative performance and administrative turnout so that precaution, restrict and norm can

take effect. They should take a comprehensive consideration on all the factors in the light of the practice. They take those problems that possess a certain nature and may be solved as selected items or key projects of administrative supervision, then try to have a definite target, instead of aiming far from reality. Supervision organs should implement in terms of dynamics and proper "yardstick", try to avoid the radicals, the deviation fault and formalism. In the recent years, adhering to this principle of efficiency, Tianjin supervisory organizations at different levels actively combine both the reform of government organization and the function transformation to check the power corruption, find the loopholes in management and especially enhance the supervision on the examination and approval of administration, financial control, and personnel management, so as to extend these supervision to business activities of government organization. Meanwhile, they improve the administrative function, by reducing "power of free judge" and eliminate the monopoly of power. Power gives way to the market; if it can be operated through market mechanism, power should be handed over to intermediary organ; if it can be managed by intermediary organs, power returns to enterprises if it belongs to the scope of enterprise's decision. They not only reduce the items of administrative examination and approval, but also establish and standardize the market of tangible construction, property right transaction and land business so as to enhance the control ability of power conduct. As the administrative supervision brings into a good play, some problems that may cause corruption have been settled down gradually, and corrupts got restrained. Now, Tianjin has realized the five-year goal of anti-corruption which is proposed in the 15th National People's Congress in advance.

The principles of administrative supervision embody its direction. Only by a correct guidance can the smooth implementation and healthy development of administrative supervision be guaranteed.

Administrative supervision as a realistic problem, involves economic structural reform and reforms of other aspects, the state democratic and legal system construction, Party's construction, power construction and so forth. Our thoughts and attempts are very tentative. New problems and new situations we confront when we strengthen the administrative supervision require us to absorb and use the other advanced experience for reference. We ought to step by step formulate a more scientific and complete administrative mechanism in the light of Chinese actual situation.

On Containment of Power Corruption Through Administrative Supervision

By Lu Junxiang*

Power corruption, or abuse of power, is a kind of act that a public servant seeks personal interest through taking advantage of the power he holds. Power corruption is the core and source of various corruptions. Administrative supervision, however, plays a vital role in containing power corruption in a bid to establish an uncorrupted, industrious and practical government with high efficiency.

I

Chinese laws have accredited supervision departments with adequate power to contain power corruption. According to provisions of the Law of Administrative Supervision, when handling cases of illegal activities or corruption, the supervision departments have a series of power: the power to check and examination, including the right of demanding for explanation and urging to end illegal activities; the power to investigate, including suspending the post of those who have been suspected of seriously violating administrative discipline, and checking bank deposits of suspects and urging the court to frozen their deposits; the power to raise problems and proposals towards the departments and public servants under supervision; the power to make supervision decision, that is, to give administrative punishments to the departments or public servants who have commit-

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ted malpractice in accordance with the results of investigation. In the meantime, Chinese laws have promulgated the necessary protective measures for supervision departments and the punishments for those who obstruct legitimate supervision by supervision departments. All these provisions and regulations have provided supervision departments with tremendous might to deter power corruption.

In China, the supervision departments hold high status among the administrative system as well as among the supervision system. On the one hand, the goal to contain power corruption by the supervision departments coincides with that of the people's government to construct an uncorrupted, industrious, practical government with high efficiency, which has also unified the policy-making between the supervision departments and the government. In China, before the government makes and implements the policy to fight power corruption, it is the supervision departments that are responsible to work out the specific action plan. On the other hand, the supervision departments have the full power to supervise whether governmental departments (public servants) violate or disobey the discipline, which has enhanced the leading, organizing and coordinating role of supervision departments in combating power corruption. Although the supervision department is one organ under the government, its relationship with other governmental departments is that it independently supervises other governments, disregarding the influence of other departments, social organizations or individual. The supervision department is also responsible to lead, guide and coordinate the fight against power corruption among other governmental departments at the same level. Such work is done through sending an office stationed in relevant governmental departments and the duty of the office is to handle power corruption within the said department, directly or indirectly. This has provided supervision departments with more mighty power and authority to combat power cor-

ruption.

II

The supervision departments should properly exercise the power endowed by laws and government to firmly and resolutely punish those who abuse their power. In particular, the supervision departments have to investigate deeply into the cases of power corruption and ruthlessly punish the badger hats, because this is the face - to - face and most vehement fight against the badger hats.

To investigate deeply into cases means to fully dig out the clues through various channels and approaches when the cases are very covert. In most cases of power corruption, the public servant takes advantage of his position, power and specialty to conduct corruptive acts in the name of assuming his legal duty, which has brought huge difficulties in cracking the cases. Therefore, the precondition to containing power corruption is to expose problems and find out clues timely. First, to find out clues through handling the complaints and disclosing from the general public. We have set up a variety of ways to encourage and bring convenience to the general public to expose the power corruption cases. For instance, apart from traditional office to receive accusation letters, we have set up boxes for accusation letters, publicized telephone number and opened up a web page to receive accusations and established a special working group to find out accusations and complaints from the general public. Over the past three years, the supervision departments in Hebei Province have handled more than 30,000 cases, of which, over 90% come from the accusation letters and information from the general public. Secondly, to pay more attention to the sections where trading power with money has taken place frequently, such as leading offices in administrative power, the law enforcement departments, judicial departments, economic administration

departments, finance, security and real estate. Analysis shows that in recent years, more than 70% cases have occurred in the above - mentioned departments. Thirdly, to investigate deeply into past cases to dig out more cases. For instance, in the process of handling a case of dereliction of duty in our province, we detected several other cases involving a dozen of officials. Fourthly, to find out clues in the regular supervision activities. That is, to timely detect cases of power corruption in the process of supervising law enforcement, correcting malpractice and rooting out corruption sources. Since 1996, we have found out more than 7,000 clues through this method. All in all, we have established a multiple mechanism to detect power corruption.

To severely punish means to make full use of power promulgated by the Law of Administrative Supervision after the case of power corruption has been cracked. We have actively explored new approaches and measures to crack power corruption cases. We have made full use of the power of supervision and investigation and emphasized on the cracking of a series of cases that had comprehensive influence. We have held high the spirit of daring to handle big cases and investigating into the bottom of the cases. As for the already - cracked power corruption cases, severe punishments will be given in accordance with laws and regulations. Whoever has high status or reputation, the principle that everybody is equal in face of discipline should be honored. Since 1996, more than 60,000 cases of breaking laws and disciplines have been handled in Hebei Province and various punishments have been fallen on over 60,000 public servants, of which, more than 20,000 belong to key cases, which involved more than 50 officials at the level of provincial department head and more than 1,000 officials at the level of county head. The publicizing of big cases has created the atmosphere that whoever breaks laws or disciplines should be punished, which has also heavily stricken those who had abused pow-

er.

III

[Power corruption stems from and spread with commercial economy. It is impossible to completely root out in any country within a certain period of combating, and the effects are mainly embodied from the containment of power corruption.] In China, thanks to the resolutions and strong measures of the government, marked effects have been achieved. To date, the spread of power corruption has been deterred, some problems inducing power corruption have been resolved, the number of accusation letters received by supervision departments have declined and the general public have been more satisfied with the anti - corruption drive. Nevertheless, the Chinese government has not yet loosened its containment of power corruption and the supervision departments are fully assuming its function to contain power corruption in a diversified and all - around manner.

[First, to enhance moral value to contain power corruption. Public servants' proper use of power is fundamentally determined by their awareness about probity. Therefore, the effective containment of power corruption primarily relies on forming public servants' proper awareness about power, status and value system.] We have launched a campaign among public servants to learn administrating in accordance with laws, administration morality and responsibility, so as to direct them to properly deal with power, status and personal interest and forge a moral defense line. Considering the reality of the province, we have publicized and awarded the model officials who had sought probity and faithfully assumed their duties. In the meantime, we have shot various major cases, inviting criminal suspects and criminals to tell their own stories, so as to let public servants draw lesson from such cases. We organized various training courses

on disciplines and regulations in a bid to strengthen public servants' awareness about obeying discipline, probity and industriousness as well as to improve their self-control and preventive ability and ability to administer in accordance with laws.

Secondly, to strengthen supervision to contain power corruption. Administrative supervision is an important supervision mechanism adaptable to interior supervision within people's government, and timely and effective supervision of governmental departments and public servants will lead to effective containment of power corruption. The supervision departments in Hebei Province have fully assumed its supervision function. In terms of supervision, we have made some explorations in the content and methods of supervision. We have worked out a series of supervision regulations aiming to contain power corruption. For instance, a system of opening administrative affairs, that is, opening working procedure and working results and receiving supervision from the general public, has been put into operation. Such system has been popularized in governmental departments in more than 10,000 counties. A system of employing special supervisor has been comprehensive put into practice in all supervision departments, and more than 3,500 special supervisors from various democratic parties, industrial and commercial societies, public organizations and education, culture and academic circles have been employed. The special supervisors have played an important role in supervising, reporting opinions of the general public and strengthening contacts between supervision departments and the general public. We have actively conducted the effect and efficiency-oriented supervision and detected loopholes in the management of various governmental departments, which have facilitated the governmental departments and public servants to assume their duties in a more uncorrupted and efficient manner. We have strengthened the supervision on how the governmental departments and

public servants exercise their power and correct the misconduct. We have also put more emphasis on supervising of the fields where power corrupt has seen frequent occurrence. We have thus conducted intensive supervision on construction projects, land lease, distribution and use of big fund and the making and implementation of financial budget. Some problems have been resolved timely, which has made power corruption contained at its embryonic stage.

Thirdly, to push forward reform to contain power corruption. Under the new historic conditions, there are various reasons for the occurrence of power corruption, of which, the reasons in regulation, mechanism and system belong to the substantial ones. In some major cases, whether occurred in Hebei Province or in other parts of China, the power corruption took place in the process of exercising power. For instance, former vice - mayor of Xingtai City made use of loopholes in approving the use of land to seek personal profit and he had defalcated and received bribe some two million Yuan. Therefore, we have gradually perfected some regulations that aim to contain power in some sensitive and key sections where trading power with money, thus facilitating the rational distribution of administrative power. We have reformed current regulations, mechanism and system while emphasizing on resolving existing problems in "power, money and post". We have also accelerated the reform of administrative approval system. While adhering to the principle of reducing power orderly and distributing power rationally, the province has cancelled and transferred to low level more than 5,500 items of administrative approval. we have further regulated administrative approving so as to prevent some officials to abuse their power in this regard. We have promoted and coordinated the reform of finance system. The system of department budget, the practice of dividing income and expense and the governmental procurement system have been put into practice, thus effectively preventing power corruption

in the management and use of funds. We have also pushed forward the reform of human resource to prevent power corruption in promotion of officials. All in all, the above - mentioned measures have made supervision departments play a more important role in correcting activities of violating laws and disciplines as well as in containing power corruption.

Carrying Out Supervision and Inspection on Laws Execution to Serve the Economic Construction

By Wang Junzhong*

Supervision and inspection on laws execution is one of the basic functions of governmental supervising and inspecting departments and also important means of corruption prevention. With the deepening of reform and opening as well as the development of socialist market - oriented economy, administration and management of state affairs in accordance with laws are gradually put on the political agenda. In recent years, our province, with a goal of promoting the economic development, carries out supervision and inspection on administration and achieves remarkable results. According to an incomplete statistics from 1995 to 2001, laws execution supervising and inspecting departments have placed 492 cases on file, investigated 2,557 cases, punished 2,225 relevant persons, put forward 7,101 supervising proposals, avoided and retrieved economic loss of 1.036 billion RMB yuan for the country.

I . Only by having objects in view and taking pertinent actions, can tangible results be obtained.

Supervision and inspection on laws execution is monitoring and in-

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inspection exercised by state supervising and inspecting organs over the implementation of laws, statutes, orders, decisions and plans of the government which are executed by administrative bodies and their functionaries. It is standardization of administrative behaviors. During the past few years, considering the local conditions of Shanxi province and centering on the three key issues of "major programs, major sites and major targets", we have successively supervised and rectified coal transportation and sale, environmental protection and construction markets. As a result, administrative behaviors are standardized.

Choosing major projects and taking effective measures for pertinent targets. In recent years, according to the government requirement and the function of the supervising and inspecting organs, we, upholding consistently the significant policies and central tasks, selected what people reported as knotty problems to be our cases on file for investigation and regulation. Our supervising and inspecting organs put the rectification of coal transportation and sale in the first place throughout the province. Under the leadership of provincial supervising and inspecting committee, we have rectified forcefully over 660 coal - allocating units from 1995 to 1997. In this supervision and inspection period, 259 cases have been investigated, among which 175 ones have been dealt with accordingly. We have put a ban on 45 stations and 73 coal allocating units which operated illegally, captured the leaked special funds of 170 million RMB yuan, urged the respective units to turn in the special funds on time of more than 300 million yuan and collected a forfeit of 10.41 million yuan. It has effectively rectified and standardized the order of coal transportation and sale and promoted the sound development of the economy in our province.

Centering upon the key departments and expanding the supervision and inspection in full scale. After the major programs are set up, we make a thorough analysis on each one of them and deem the positions where the

illegal phenomena occur as our major concern in order to solve the most prominent problems. We find clues through investigation and then deal with illegal behaviors accordingly. In the meanwhile, we put forward proposals and press relevant sections and units to make improvements over management, thus strengthening supervision and binding mechanism. In compliance with the requirement of the ninth five - year program of the provincial government, we regarded it as the main point to improve environment for quite a few years with emphasis on supervising and inspecting the execution of environmental protection regulations by governments and executive departments at all levels. We have successively investigated 26 cases and given administrative disciplinary sanctions to 6 vice county magistrates, 30 heads of county and town and 21 responsible persons of environmental protection departments because they did not execute earnestly or even violated laws and regulations on environmental protection. All of this has had a positive effect on environmental protection and vigorously pushed it on.

Aiming at major targets and deepening laws execution supervision. On certain stage of the expansion of supervision and inspection on laws execution, interferences of all kinds will come out and cause hindrances, especially when some leading organs or persons are involved. If we take no notice of them, it will be very difficult to open up a new prospect. With consideration to the above matter, we regard as major targets those leading organs and cadres that interfere with supervising and inspecting work and that violate laws and disciplines and exercise the rights of inspection, investigation, advising and punishment to some extent to deal with their violating behaviors. Through this work, the authoritativeness of supervision and inspection on laws execution is enhanced and at the same time, supervision and inspection on laws execution is deepened. Construction industry is corruption - prone field. We keep a keen eye on some leading organs

and cadres who utilize their rights to interfere with contract granting and entry and those who engage in defalcation, embezzlement and bribery with their power, which affect the quality of construction projects. In 286 cases which has already been investigated and handled, we punished 679 law-breakers among whom there were 103 cadres at the district level and 320 cadres of offices, which produced effective deterrence and dynamically pushed forward the development of our work.

✓ II . **Only by establishing a sound system concerning the supervision can successful execution of supervision be guaranteed.**

To establish and strengthen a favorable operating mechanism is the prerequisite and basis for exercising supervision and inspection on laws execution. During the past years the organs for discipline supervision and inspection in all levels have made some positive probes and practice.

Establishing a powerful leading institution to ensure the smooth proceeding of supervision and inspection. To carry out supervision and inspection on laws execution we have to accomplish our task in a purposive and planned way while in the process we may impinge on interests of all aspects and confront some deep – seated problems. On the one hand, we have the advantage of healthy atmosphere to suppress the crooked trend, and on the other, we surely will face the hindrances and interferences from various sources, especially for those supervising tasks which are of overall importance and involve a wide range of interests. It is very difficult to fulfill these tasks only by supervising and inspecting organs without attention and support from governments of all levels. In these years, for each major supervising task of our province, a leading organ is set up from above under the support of the government to give organizational guarantee. There are mainly three forms of leading organs: firstly, major national or provin-

cial supervising and inspecting programs are under the command of provincial leaders in charge, with principals from Supervision and Inspection Committee(SIC)of the province and relevant functional institutions as direct leaders. Secondly, provincial supervising and inspecting programs are generally under the command of the provincial Party Committee with principals from relevant functional institutions as leaders. The administrative bodies are situated in supervising bodies of the province. Thirdly, the provincial conventional programs are organized and coordinated by the combination of SIC and relevant functional institutions to form joint meetings. Various areas, cities and counties follow the pattern of the above and establish their own institutions so as to form an interactive integrity which reinforces supervision and inspection on laws execution.

Working out feasible working plans to ensure our work to be well - founded. Supervision and inspection on laws execution has the characteristics of being various - aspects - involved, highly policy - related and professional. The prerequisite for its success is to work out feasible working plans. Before we draw up a plan, we take into consideration its legitimacy, normativeness, feasibility and authoritativeness. In light of this principle, we base our plan upon thorough investigation and research and also opinions from various sources. For example, during the preparation of the implementation plan for supervising and inspecting laws execution with regard to land, we definitely propose that through supervision and inspection, land resources and land assets be well managed, land markets be fostered and land transactions be normalized so as to make rational use of and preserve effectively land resources. The task and focus is to clean up and rectify invisible land markets, suppress invisible land transactions. We take specialized inspection as the main method and make concrete arrangements for working schedule and organizational form. In this way, the related departments on all levels act in unison and advance as a whole,

thus implementing the plans validly.

Stress working methods, normalizing strictly working modes to ensure supervising and inspecting results. After supervising and inspecting plans are determined, in view of practical situations we stick to the principles of "to pursue laws and results" to use different methods and forms in different supervising and inspecting programs and thus achieve satisfactory results. For example, in the supervision and inspection on laws execution with regard to taxation, we introduced the method of solving outstanding problems in concentrated time with centralized forces. In the year of 2000, taxes that were traced, cleared and turned in to national treasury amounted to 166 million yuan only within three months. In the supervision and inspection on laws execution of lightening farmers' load, we adopted the method of tracing inspection. In compliance with relevant stipulations of the State Council and our province as well as regulations on disbursement by farmers and labor management, we supervised and inspected the execution of supervision card system, examination and approval system of budget and final account and special auditing system concerning farmers' load. All of this kept "Disbursement is withdrawn by village and planned by township" of our province within the limit set by the State Council. For 10 years on end, there occurred no malignant case owing to the overburden of farmers, which was commended by the related department of the State Council. In the supervision and inspection on laws execution of enterprise efficiency, focusing on production, supply, marketing and central issues concerning working staff, we adopted the method of advancing in classification. Among 355 large - scaled enterprises, we chose 44 provincially - operated ones as key targets to give instruction. Among 217 medium - scaled enterprises, we chose 63 profitable ones as key targets to supervise and inspect their enterprise structural readjustment and products upgrading and renewal. Through this efficiency supervision and inspection, of 2,502 programs

2,271 have been accomplished, which increased and made economic benefit of RMB 223,036,400 yuan. We made 807 proposals on enterprise management, revised and constituted 948 items of rules and regulations, all of which strengthened enterprise management and created economic and social benefits for enterprises.

✓ III . Only by recognizing the interrelationship of the work and persisting to “three combinations”, can supervising and inspecting work be deepened.

Combining supervision and inspection on laws execution with cases dealing. Supervision and inspection on laws execution is comprehensive work while cases dealing is concrete work. In supervision and inspection, we pay attention to using cases dealing to bring the lawbreakers into submission in order to educate the masses, maintain the solemnness of policies and stipulations and enhance the authoritativeness and deterrence of supervision and inspection on laws execution. Problems are intensive and cases occurrence rate is quite high in the fields where supervision and inspection on laws execution are involved. It requires that supervising organs seek clues of case, increase channels of case sources and investigate cases of violating laws and regulations in the whole process. Therefore, we give utmost importance to cases dealing all the while. For example, in the supervision and inspection on laws execution of construction projects, we opened a new prospect by prosecuting 4 cadres at the provincial level. In the supervision and inspection on laws execution of coal transportation and sale, we focused on those leading cadres who abused power by fair means or foul in all links of coal transportation and sale for unlawful economic gains and punished 2 cadres at the provincial level, 44 cadres at the district level and 83 cadres of offices, which suppressed effectively transaction between rights and money.

Combining the realization of phrasal and continuous goals in supervision and inspection on laws execution. The programs of supervision and inspection on laws execution, according to their content and nature, are divided into short – term and long – term ones. The former can be dealt with in a way of fighting a quickly decided battle, i. e. the programs should be set up, accomplished and show the effect within the same year. As to the latter, due to the multiplicity of contributing factors and the difficulty in handling, fixed goals are usually accomplished in a span of several years. Considering the matter discussed above, we combine the realization of goals in special stages and those in the long term:

Firstly, to determine the goal of the same year and the ultimate goal; Secondly, to take effective measures to ensure the goal in that year; And thirdly, based upon the phrasal achievements in supervision and inspection on laws execution, adhere to the principle of retaining the original programs, organizational structure, staff formation as well as supervising and inspecting force and adopt the measure of accomplishing the goals step by step in a planned way. We must ensure that what is accomplished is the key part of program in terms of the same year while, from the historical view, is an integrated mission of supervision and inspection. For example, from 1996 to 1998 the main task was to fulfill *the State Council's Decision on Issues Concerning Environmental Protection*. During these years we banned, closed, stopped 15 kinds of small enterprises that caused severe pollution and prevented their resurrection. The emphasis was laid upon the supervision and inspection on the duty performance concerning environmental protection by local government and related departments. From 1999 – 2000, the work was centered on goals of reaching the environmental standard and of harnessing Fen River. To accomplish “one control, two standards reaching” became the focal points of the supervision and inspection. Great efforts were made to help those industrial pollution sources and

major cities in our province to reach the environmental standard. From 2001 up to now, according to the tenth five - year program of the province, the concrete goals for improving environment have been legalized and brought in line with the long - term program. As a result of several successive years of the supervision and inspection on laws execution, environmental protection and improvement in our province mount to a new stage, which in turn promotes the sustained development of the provincial economy.

Combining the advancement as a whole with the breakthrough at focal points. Each supervision and inspection program, due to the multiplicity and complexity of its contributing factors, usually involves various problems. If all the problems are to be dealt with altogether, the situation that all things advance at the same level without emphasis will surely shape up during the work. On the contrary, if attention is paid merely to those key issues, some ordinary problems will be ignored and even affect the whole working process. In view of this, we combine the two methods organically and promote the overall working process by means of breaking through focal points. As a result, not only does the work advance in full scale, but also the knotty problems are solved. When we lay out the tasks of supervision and inspection on laws execution, with no less attention paid to the overall advancement, we also adopt the method of concentrative solution and breakthrough at focal points to inspect specifically those hot issues that people address most. When dealing with some cases involving violation of laws and regulations, we are also aware of giving play to the functional advantages of various departments and forming a combined force for supervision and inspection. Especially when those major cases are difficult to handle with supervising and inspecting functions and measures, we will seek help from the public security departments and investigating departments according to the requirements of the work. In the meantime, as to

the investigation and handling of some major cases, we deploy the force within the scope of the whole province and form a powerful case – handling troop to launch a “mass campaign” with cities and towns as the “main battlefield”. By acting as a whole we effectively push forward the overall progress of the supervision and inspection on laws execution.

Re – recognition of the Administrative Supervision in the Ethnic – group Area of Western China

By Sun Xianqian *

The Chinese administration supervision department is an organ established within the government according to law for special performance of its supervisory functions to exercise supervision of administrative organs and of its working personnel, a self – restraint mechanism of the government. The purpose of the administration supervision work is to ensure for State administration organs and their public servants to perform governmental administration in accordance with the law and to implement honest and clean performance of their duties with high efficiency. Therefore, constant deepening of recognition of the administration supervision work in ethnic – group areas in the western development of China to strengthen the administration supervision work in ethnic – group areas in western development bears high practical significance to the guarantee of implementation of the strategy of the western development to quicken the economic and social development of western ethnic – group areas.

1. Necessity in strengthening the administrative supervision work in ethnic – group areas in western development of China

Implementation of the strategy of western development of China to

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quicken the economic and social development of the western regions is a significant strategic decision made by our country. Reinforcement of administration supervision work is the inevitable demand for constructing a good economic and social environment for western development of China to guarantee a smooth carrying out of the development, as is specifically presented in the following aspects:

First, strengthening the administration supervision work in ethnic – group areas in western development of China is the objective demand of the socialist market economy. Along with the establishment and perfecting of the system of our country's socialist market economy, especially with changes of the operation patterns of economy after China's accession into WTO, the traditional practice in planned economy cannot continue to be used for implementation of the western development. We must set up a new system adapted to socialist market economy and to conditions for opening to the outside world, adopt new methods conforming with the characteristics of regional economic and social development of western areas following rules of the market economy, and try hard to construct an environment for economic development conforming to the new historical conditions of western development. Viewed from the development rules of the present market economy, competitions among economies of different countries or regions, to a certain extent, are competitions of the social environment, legal system environment and investment environment. Reinforcement of the administration supervision work plays an irreplaceable improving and guaranteeing role in forming the above – mentioned good environments of multi – national areas for western development, also the objective demands from our socialist economy and western development. In recent years, the administration supervision work of Inner Mongolia Autonomous Region, aiming at the special social conditions of ethnic – group areas, first having in mind the defense of social stability and estab-

lishment of a good order for market economy, laid stress on pushing forward the legal systemization advance of social administration, intensifying administration implementation according to law, serious supervision over law enforcement, and screwing up administrative disciplines and legal disciplines with obvious effects achieved, resulting in energetically pushing forward the development work.

Second, strengthening administration supervision work of the ethnic - group areas in western development of China is the inevitable demand from changes of governmental functions. In the western development, the market - oriented type strategy of development will be overall put into effect. The main body of development will be changed from the government into enterprises as well as extensive farmers and herdsmen, and the guidance of development will be shifted to the market - oriented direction with stress on market competition. In association with such situation, it is inevitably followed by changes of governmental functions. Various levels of the government need to further free themselves from old ideas, thoroughly get rid of the fetters of traditional planned economy and practically change the governmental functions to economic adjustment, market supervision, social management and public services. Therefore, to reinforce the administration supervision work, standardize administrative actions of governmental organs and of public servants, better administrative management and improve administration efficacies are the certain demands for changes of governmental functions and constructing an honest and clean, efficient and hardworking as well as pragmatically - inclined government. In recent years, centered on changes of governmental functions, we uninterruptedly increase the momentum of administration supervision, with stress laid on reform of the administrative system of examination and approval to reduce items needed to be put under administrative examination and approval procedures, and on strengthening supervision

over administrative efficacies for promotion of constantly raising work quality and efficiency of government departments and working personnel, meanwhile actively bring the political affairs to the open in the entire Autonomous Region, standardize the administrative management procedures and speed up the establishment of the administrative management models and service patterns adapted to the conditions of socialist planned economy. Such moves have energetically expedited changes of governmental functions as well as social and economic development.

Third, strengthening the administration supervision work in ethnic - group areas in the western development is the realistic demand for impelling and giving free rein to the zeal of masses. Western development of China cannot do without the participation of cadres and masses of various nationalities in the western regions, who are the main force of the development. Whether the development advance is fast or slow, or succeeds or fails is decided by whether or not various levels of the Party Committee and government in western areas can unite as one and lead cadres and masses in hard struggles and exerting themselves to make the regions prosperous. In all these the cardinal thing is to well defend and realize the fundamental interests of the broad masses, as is indeed the very key to encouraging, giving free rein to and protect the zeal of broad cadres and masses, of which meting strict punishment to corruption is a significant task. Corrupt acts not only make direct inroads on State, collective and people masses' interests, but also seriously erode the organism of the Party and the government, sap people's morale and shake the confidence of the masses in the western development. Therefore, reinforcement of the administrative work in the western development, working against corruption and encouraging honest and clean service, is the inevitable demand and forceful guarantee for close relations between the government and the masses as well as between cadres and broad people, for exciting and giv-

ing play to the initiative and creativity of broad cadres and masses and for giving impetus to a smooth advance of the development. In recent years, aimed at the actual situation that multiple construction projects and big investments for the western development may be an entrapment for a few people to avail themselves of the loopholes in systems, policy and administration as well as at blind making of policies, dereliction of duties or malfeasance, Inner Mongolia Autonomous Region has in time laid down the "Provisional Regulations on Reinforcement of Control and Supervision over Leading Organs and Leading Cadres at Various Levels in Implementation of the Western Development Strategy", meantime strictly carried out various stipulations about honest and self-constraining service, and unceasingly increase the momentum of investigating and handling corruption cases. Via measures implemented of propaganda and education, system constraining, supervision and checks, serious punishment for breaking the law, successful implementation of the western development has been powerfully guaranteed, meanwhile cohesive force of the Party and the government further reinforced and the initiative of broad cadres and masses greatly encouraged.

2. Administration supervision work of ethnic group areas in western development faces new challenges.

In ethnic - group areas in the western development, the administration supervision work, on one hand has its historical, regional, social environmental characteristics, i. e., its rather backward economy and culture, not high degree of productive socialization and of legal systemization of social administration, and relatively complex problems of nationalities and religions; on the other hand, along with changes of the international political and economic situation and uninterrupted deepening of reform and opening-up of our country, it also faces lots of new circumstances. How

to cope with such situation and changes is a realistic challenge faced by the administration supervision work of the western ethnic – group areas .

Firstly, in the first decade of this century, the system of our country's socialist market economy is still in the period of being gradually set up and perfected, its socialist democratic political structure and legal system being not complete, so it objectively provides opportunities for those corrupt persons . At the meantime, aspects of government functions and administrative law – enforcement reflect this kind or that of inadaptability to new demands from the western development . Especially after our accession into WTO, a series of influences and impacts have been brought about into our country's economic field, including the political and social life fields with the administration supervision field included . Due to causes such as history, geography, culture, economic and social development, people's ideological ideas and so on, such influences and impacts are more obvious and acute . For lack of experience, regulations and systems being imperfect, supervision and administration being incomplete, in the work of social administration and concrete construction, there possibly emerge phenomena of "Escape, emission, seepage or leakage " or all kinds of loopholes causing serious losses and wastes of construction funds . So the administration supervision work has hard and huge tasks, facing severe tests .

Secondly, along with the State policies favoring the aspects of government investment, banking credit, outside business and investment inviting, qualified personnel use, taxation and so on, western areas especially ethnic group regions gradually become the "Policy Basin" enjoying favors for development . On one hand this situation creates favorable conditions for western economic and social development, on the other hand provides adventurers' place for a small number of degenerates to seize illegal interests . Meantime, along with the wide opening of western areas fol-

lowing the western development, inevitably various rotten and dissipated life styles will make influence on the society of western ethnic - group areas, and remnants of feudalism as dregs of society may possibly float up again to endanger the organic body of society, resulting in few cadres or civil servants leading a dissolute life as they cannot endure temptations. All these will form direct challenges to the administration supervision work. Preventing abuse of administrative powers and, blocking the access for powers accession into the market to abuse power for gains via the action of the restraining mechanism of balancing various powers brought into play, so as to gradually form an environment for honest and clean administration absolutely free from corruption for the western development, that is an important and pressing task for the administration supervision work of western ethnic - group areas.

Thirdly, because of western areas of our country being regions where minority nationalities live in compact communities, and areas bordering on 14 foreign countries, such a situation of nationalities and religions determines the fact that the western development of our country is not only involved in the problem of economic development, but also needs to get solved of many contradictions in politics, cultures and so on, to face and to well deal with various relations of nationalities, religions and so forth. Such a social situation different from that of the middle and eastern China causes the administration supervision work to be correlated with ethnic, religious and the like problems. If concerned policies cannot be correctly coped with to properly treat such problems, some of which may affect the advance of western development and social stability. Especially in circumstances of foreign hostile forces ceaselessly making disintegration, westernization and infiltration, and some elements having ulterior motives deliberately creating nationality contradictions and religious problems, trying to undermine stability and development of our country's ethnic -

group areas for realization of their political ends, cause more complication of our administration supervision work. Thus it must be demanded that the strategy for implementation of the western development not only involves the strategy for economic development, but also involves the strategy for social stability. Likewise, the administration supervision work not only serves economic construction, but also serves social stability, so as to drive forward a comprehensive, harmonious and stabilized development of the western ethnic region economy.

3. Several focal points in strengthening administration supervision being put into effect in western ethnic – group areas

As a long – run and hard social systematic program, the western development needs unremitting efforts of several generations. Therefore, the administration supervision work must be always centered on the central task, and put unremitting efforts in the long duration, based on a long – term arrangement, with stress laid on the main points. Especially in the western ethnic group areas, the work must be based on different social and economic conditions and internal and external environment, aimed at problems existing, and done with active and initiative measures adopted for implementation of its deepening development. Presently, several aspects of the work as follows must be made good efforts to:

The first must is to seriously study the fresh situation and new problems faced by the administration supervision work so as to be adapted to new demands after our country's accession into WTO. We must pay high attention to the impacts on the administration supervision work of the western ethnic – group areas brought about after our accession into WTO, have the administration supervision work laid in a macroscopic background to be handled, aim at fresh situation and new problems emerging after our

accession into WTO, and in time adopt effective reasonable replying measures. Cadres of various levels must reinforce their study, have an intimate knowledge of know - how and regulations concerned with WTO, and find out favorable and unfavorable factors for our administration supervision work after the accession into WTO, "shoot the arrow at the target", so as to strengthen administration supervision. In - time revision must be made of concerning laws, regulations, rules and standardized documents about administrative supervision, so as to be adapted to rules concerned with WTO and to our State demands for the administration supervision work. Aimed at weak links emerging in the operation of administration supervision after our accession into WTO, effective preventing counter - policies must be adopted to tighten the supervision and control over acts violating disciplines and laws. Momentum must be increased of administration supervision over stressed fields and positions, with precaution provided in advance so as to ensure successful implementation of various construction tasks in the western development.

The second must is to further perfect the internal working mechanism of administration supervision for improving our working styles and methods. Along with further deepening of the reform of our State economic and political structure, in - depth progress must be made in our administration supervision work so as to be adapted to new changes of the social environment and new demands for the supervision work. The mind must be emancipated, with ideas renewed, to actively push forward innovations of concerning systems, mechanisms and methods, so as to clear away obstruction for carrying out the western development. Concerted organization actions of the administration supervision department must be further strengthened, to reinforce coordination with departments of the government, law execution, monitoring, etc., combining comprehension supervision with specialized supervision, so as to give free rein to the supervi-

sion efficacy. Meantime further straightening out work must be done for the responsibility relations between upper and lower organs within the supervision system as well as between offices and entering/stationing in set-ups, with their job responsibility systems consolidated and various supervision tasks practically put to effect, so as to step by step set up and perfect the administration supervision system and work mechanism with Chinese characteristics.

The third must is to exert ourselves to cope with the work of preventing and controlling corruption. Realization of the strategic targets of the western development must have the aid of the establishment and perfecting of the socialist market economic structure. Presently, one of the important factors affecting this advancing process is the phenomena of abusing power for personal gains, trading power for money and so forth, which undermine the basic rules for operation of the market economy, affecting and blocking economic development and hurt the zeal of broad cadres and masses in deepening the reform and quickening the development step. Therefore prevention and control over corruption by the fountainhead must be taken as an emphasized point with indefatigable efforts made from beginning to end in the administration supervision work in the western development, exert all ourselves on innovation of work structure, mechanism and system, with deepening reforms of the administrative system of examination and approval procedures, financial and administrative systems and the system of cadres/personnel management carried out as a breach, to push forward the performance of administrative power operating along the tracks of systematization and legal systematization. Meanwhile we must further perfect and standardize the system for political affairs, village affairs and factory affairs brought to the open to widen the channel for democratic supervision so as to construct a good social, political and economic environment for the western development.

On Legalization of the Building of An Honest and Clean Government

By Wang Gang*

To set up a legal system for an honest and clean government is an important part of Deng Xiao Ping's Theory, which has also been consistently called upon by the central government. President Jiang Zemin has stressed several times on "Building up the control mechanism and supervisory mechanism for power exertion in accordance with laws", "Gradually systematizing and legalizing the work of anti - corruption and advocating honesty". All these have provided guidelines for further works to be carried out on anti - corruption and honesty advocacy.

1. To administrate according to law is the essence for setting up a legal system of an honest and clean government.

In order to solve problems concerning building up an honest government and anti - corruption, one needs to rely on legal system. Socialist market economy is a legalized economy, which not only requires economy to develop and operate according to law, but also requires government administration in accordance with the law. So, building up an honest and clean government through setting up legal system should also be considered.

According to the demand of developing a socialist market economy,

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laws and regulations should be made timely to address the main issues relating to leaders at this period. This will assure the progress of setting up a legal system for an honest and clean government and anti - corruption could be carried out healthily and orderly. We, Liaoning Province has made some research and application in this aspect. To coincide with central government's plan and our provincial legal administration work, we have brought forward 9 draft proposals concerning local rules and regulations and 17 governmental rules to the Provincial Standing Committee of National People's Congress for review. Also, for the purpose of regularizing the honest behaviors of governmental leaders, we have in recent years promulgated more than 10 local laws, regulations and systems such as "Rules On Strictly Prohibiting Staff from Governmental Institutions To Take Part in Improper Social Economic Activities", "Rules On Strictly Prohibiting Staff from Governmental Institutions To Take Part In Improper Social Life Activities" and Liaoning Government's "10 Rules and Regulations For An Honest and Clean Governmental Administrator", etc., and in line with national idea of building up a legal system for an honest and clean governmental administrator, we have also determined punishing rules or methods and suggestions for implementing such regulations, through which we have effectively regularized governmental administrators' behaviors. At the same time, we have also promoted policy administration to be carried out in accordance with the laws by reforming system and mechanism creatively. In 1999, our province has started with reform on administrative approving system, reducing respectively 50.5% and 41.6% of administrative approving strength from provincial and municipal government. We have taken monitoring measures concerning approving matters, such as "Foremost Responsibility System", "Undertaking the Approval System", "Job Rotation System", "Responsibility Tracking in Approval System", etc. We have further improved method for approval

submissions; we are implementing system like "Submission at Counter", "One - stop Service" etc. which gradually become a user - friendly service system for public administration. We have carried out further reforms on financial management system, implemented systems such as departmental budget, consolidating treasury payment, centralized governmental purchase, etc. We have implemented the "Segregation of Incomes and Expenses", non - tax income of the province was RMB 23.27 billions last year. We have broadened the rights of participation in recruiting government officers, rights of transparency and rights of monitoring; and we have widely implemented system like democratic recommendation and allowed free comments, competitive recruitment, etc. Through carrying out reform on monitoring management system concerning policy administration rights, financial administration rights, personnel management rights, we are gradually building a healthy restricting mechanism and monitoring mechanism in accordance with laws, and relatively ensuring the role of law enforcement in anti - corruption and setting up an honest and clean government.

The excessiveness and easiness of current corruption problems are on the whole due to lack of rigorous laws and regulations and effective restrictions on administration's behavior, enterprise's behavior and market's behavior. As some government officers are holding weighty approval decision power on land lease, work contract, assets transaction, capital allocation, approval of project, etc, and therefore subject to target of corruption and soliciting by those who are scrambling and contesting for various types of benefits. Due to incomplete legal system and lack of monitoring mechanism in addition to lack of proper self - discipline, resulting in certain people making use of power entrusted by the public, abusing such power for personal gains, eventually succumbing as slaves of evils. Evidence from applying anti - corruption and setting up a legal system for an

honest and clean government shows that to follow laws and letting powers expose to people's supervision should be the direction, that this should also be an important element of setting up a legal system for an honest and clean government. While setting up such, we should also pay attention to those mechanisms and systems that could most easily breed corruption. We should start from those fragile areas whereby powers could be most easily out of control, drop balance and slip out of supervisory sight, etc. and try to solve problems through reform via proper and healthy legal system. According to demand of socialism market economy rules, if rules, laws and systems were to be set up, efforts should be focused in four aspects: 1. To stipulate those preventive and punitive rules, regulations and systems that have been tested and proven effective as laws, so that they could be entrusted with power, unification and force. For example, policies like the "Segregation of Income and Expenses", tendering and auctioning land - use right for commercial land, tendering for building construction project, governmental purchase, letting assets transaction be market orientated, etc. have all been addressed according to market mechanism during several years of implementation, and now conditions for stipulating such mechanism into law is about the right time. 2. To look at new development and new problems from new angle. One should be practical and borrow effective experiences on legal system from overseas countries, incorporating local ideas, seriously probing and determining the regularity of legal system that could adapt to the development of new situation, consistently perfecting a "legal boundary" that would deter corruption. 3. To insist that laws and policies should be carried out strictly. Any law, rule and regulation that have been stipulated should be enforced strictly and should not be alternated lightly. We should execute law strictly, those who act against the law should be questioned, every body should be equal in front of disciplines and laws, there should absolutely have no

means of by passing. To those corruption activists who turn a blind eye on regulations and laws, we should insist on tracking down to the root and never relent at any moment. 4. To set up a responsibility tracking system that is healthy and strict, so to ensure various rules and regulations be carried out effectively, and thus protecting the seriousness and powers of such laws and regulations. As anti - corruption requires, one should make sure that the reform on the administrative approval system, financial management system, government officer personnel system are well implemented, power is rightfully used, policy well made, right person chosen, laws, rules and system are set up and try to block loop - holes that could easily cause problems. In connection with setting laws, rules and system, we should not only be strict but also be rigorous in setting up line of defense in administrative and legislative discipline.

✓ 2. To strengthen the monitoring mechanism is a critical link of setting up a legal system for an honest and clean government

To further strengthen policy administration monitoring is extremely important to deter various corruptions. This is necessary when administering policies according to laws and promoting the set up of legal system for an honest and clean government are concerned. In recent years, the Provincial Government has rules like "Monitoring Rules on Liaoning Provincial Government Regarding Administrative Law Enforcement", "Decision of Liaoning Provincial Government on Monitoring Approval Made by Provincial Governmental Department", etc. The provincial government has also organized its various departments such as the Provincial Government Office, Provincial Supervisory Bureau, Provincial Direct Work Committee, Provincial Government Legislative System Office, Provincial Editing Office, etc to carry out a 2 - year monitoring checks on

about 50 provincial governmental departments' approval works, in which rather good results were achieved, a step further in regularizing administration behavior, increasing administration's efficiency. The National People's Congress has organized relevant departments to carry out checks within the whole province to ensure "Land Management Law", "City Planning Law" and "Accounting Law" are well being conformed. Through such checks, the government has strengthened and developed work done on administrative law enforcement, rectify the existing problems, and forming an initial good atmosphere on law abiding and strictness throughout the whole province. We have also set up an information networks for Dalian Custom and Dalian Industrial and Commercial Bureau so that a monitoring mechanism could be further strengthened. Through setting up and management of internet website system such as "Electronic Policy Administration Information Plat Form", "Legislative Monitoring System" and "Pro - honest Information Plat Form", we are transforming from "people's management" to "machine management", cutting down the possible subjective and erratic form of influences, increasing the objective attitude and fairness in policy administration which would reduce corruption from the root end.

The critical point of strengthening administration monitoring is to carry out effective supervision and restriction on powers. Combining reforms towards governmental institutions, job duties of administrative powers should be rationally divided; a mechanism with rigorous procedures and effective restriction strength for operating powers should be set up rationally and logically so that power's abusing behavior could be prevented and limited within the structure set up and during the process of operation. First is to strengthen supervision and monitoring on leaders and key personnel of policy administration regarding legality and rationality of their power action; we should check government officer's effectiveness in his/

her exercises of power, promoting the rightful way of using power. Second is to build up a democratic and scientific decision – making mechanism as well as strengthening monitoring and control, so that variance and mistake made during decision – making and execution could be rectified. Third is to strengthen the verification of aftereffect of policy administration, through rectifying bad behavior and checking on wrongful administration behavior, person concerned would be subject to penalty for his/her responsibility, thus making he/she to be more cautious. Fourth is to expedite the legalization of monitoring rules and regulations. The “National Righteous Law” and “Monitoring Law” should be made as soon as possible, and also regularization of monitoring restriction of market economy laws and rules towards policy administration power should be perfected. One needs to perfect the prosecution, investigation, inquisitions and execution rules for laws and rules violators, so that corruption could be penalized in time, and the rightful monitoring of power exertion could be ensured.

3. Strengthening legal education is the fundamental conditions for setting up a legal system for an honest and clean government

To carry out continuous legal education for leaders and governmental officers is the foundation for promoting setting up of legal system for an honest and clean government. 2001 is the year we achieved obvious results for education. Taking a course material based on the serious corruption case of Mu Sui Xing, the ex – Mayor for Shenyang and Ma Xiang Dong, ex – Deputy Mayor for General Affairs, we have carried out legal education with “Three Thoughts” as main theme, with participation of more than 300,000 leaders and government officers from whole of the province. In order to rule the awareness of discipline and law, about

350,000 leaders and government officers from the whole province have also taken part in knowledge tests and quiz activities relating to laws, rules and regulations. We deem that during the process of promoting the setting up of a legal system for an honest and clean government, we should also strengthen the regularization of moral and gradually improve moral regularization standard. First is to strengthen awareness of law – abiding in policy administration. One should deeply understand that law – abiding is a great change and profound reform in governmental management method and system, which is also an important theme of integrating the “Three Representatives”. Second is to increase the awareness among civil servants regarding responsibility consciousness. One must strive for the transformation of “rulers focus” to “peoples focus”, from “governmental authority” to “government with responsibility”, from “ruling peoples and matters with laws” to “ruling rulers and powers with law”. One should build up a concept that laws are liable to peoples. We should bear it in mind that powers are generated peoples and subject to monitoring from them. Peoples exist not for the government but government exists for the peoples and the peoples’ government should always be the loyal representative and protectionist of benefits of peoples. Third is to strengthen the setting up of moral standards. Moral standards are the standard of behaviors in judgment mechanism at the bottom of people’s heart. Such moral standards are influenced through education, public opinion, habit and tradition. One should educate the leaders and government officers to regularize their own behaviors with good social ethical, work ethical and family morality. We should drive and influence social morality with gracious moral standards and sentiment in order to push forward progress of managing a country with morality. Fourth is to form an environment allowing public opinion for legal education. To bring forward legal education for setting up a legal system for an honest and clean government should be the

task of our whole society. It shall include efforts from all levels of governmental department, supervisory department, publicity department, cultural department and news media organization, so that issues about building up an honest and clean government could be brought forward to villages, communities and families through TV, newspaper and classroom. In this way the whole society could set up a law-abiding attitude; and an excellent atmosphere of "glorious to be law-abiding and shame to be dishonest" could be largely cultivated.

4. To carry out law enforcement supervision is an guarantee for setting up a legal system for an honest and clean government

Under new circumstances, new problems appear when carrying out anti-corruption work, the supervisory institution should strengthen its supervision over powers that had given to those policy administrators and amount of freedom of exercising such powers should be controlled. We need to perfect the building up of a perfect legal system. We should suggest pushing forward the determination of Approval Law, Licensing Law, Assets Reporting Law and Law on Policy Administration Procedures, etc. in time. Also, the ruling rights of cases and provisions relating to the relevant liabilities within "Monitoring Policy Administration Law" should be further amended and perfected. Second is to regularize supervisory behavior. Supervision on law execution, systemizing of effective supervisory and systemizing of legal system should be further focused. Through setting up of laws to regularize details of standard of effectiveness for various kind of administrative behaviors, setting up system for exposing ineffectiveness and penalization of liability and setting resolution for those who cannot meet up with such effectiveness. As freedom of state-owned enterprise to operate its capital is substantial, one should determine regulations to ad-

dress issues concerning state - owned enterprises' assets, including regulations to reform its system, restructure its assets and issues on assets transaction, etc., relevant supervisory method should be clearly indicated. Third is to clearly identify the target of supervision. One should focus on main current issues among main title positions, major project and major economic sectors, and strengthen supervisory checks towards policy administration bureaus, commercial management department, insist on deterring and rectifying law - disobeying behaviors, in order to protect power of the central government and ensuring smooth flow of governmental orders. Fourth is to strengthen on supervisory manpower workforce. Policy administration monitoring bureau should adapt to demands of new situations and new missions. They should positively study, summarize and execute the regulations and main focus of the supervisory bureau, so to exert the function of policy administration monitoring bureau in anti - corruption work. They should also expedite on setting up technical equipment for the policy administration monitoring bureau; so that it could acquire various information timely through making full use of advanced technical means, and that signs of irregularities could be discovered, thus raising modern standard of exercising supervisory tasks.

Strengthening Combating Corruption and Building A Clean Government

By Xiu Fujin*

The status and functions of the supervision organ are very important and evident in combating corruption and building a clean government in our country. Since it was reestablished in 1987, the supervision organs of China has gained wide praise and trust for its unique work - style and the fruitful contribution in combating corruption and building a clean government. A lot of serious corruption cases have been discovered and tackled by the supervision organs in recent years. Along with anti - corruption's further forward, it has posed new problems and requirements on strengthening the function of combating corruption and building a clean government of the supervision organs.

1. The significance of strengthening the function of combating corruption and building a clean government

It is determined by the nature of the supervision organs to strengthen its function of combating corruption and building a clean government. The second clause of *The Law on Administrative Supervision of PRC* stipulates that the supervision organs is the organ by which the people's government exercises supervisory function. In the light of the law, the supervision organs implements supervision on the state administrative organs, civil servants and other personnel appointed by the state administrative organ. It

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has momentous significance to achieve political sobriety and promote economic development by strengthening and guaranteeing the supervision organs to fulfill the function of combating corruption and building a clean government.

1.1 To ensure good governance through combating corruption and building a clean government.

During the last 20 years since the reform and opening, the government at different levels have played an important role in guiding and developing the socialist market economy, in organizing and leading the socialist modernization, in raising the people's living standard. But in all governments at different levels, we should admit that there are some problems such as get personal gains by abusing power, graft, bribery and degeneration. All of these not only disturb and block the course of the reform and opening, destroy the development of productivity, but also undermine the image of the government, affect the authority and weaken the function of the government. It is only by starting with making the internal supervisory mechanism perfect, and strengthening further the function of combating corruption and building a clean government of the supervision organs, that can prevent and fight corruption effectively, so as to bring the function of the government into full play. According to the Supervisory Department's statistics of Jilin Province, only from 1997 to 2001, all the supervision organs of Jilin Province have investigated and dealt with accordingly 26,743 cases that state personnel violation of law and discipline. The organs have punished 33,246 persons (including being turned over to Judicial Office), and have saved more than 730 million yuan, the directly economic loss for our country, through dealing with the cases.

1.2 To follow the government policy strictly through combating corruption and building a clean government.

In our local government bodies, besides the corruption mentioned

above, there are also problems of bureaucratism, local and sectional protectionism and illegal administration, such as order is made but not performed, prohibition is set but not stop acting, policy is over but countermeasure is under, shifting responsibility into others, irresponsibility, demoralization, low efficiency, enforcing the law in excess of authority, invading the legal right of citizen and juridical person. The supervision organs of Jilin Province have concentrated on solving these problems in recent years. In 2000 and 2001, the supervision organs have investigated and treated accordingly 431 such cases. To solve these problems effectively, we should endow the supervision organs with more authority, strengthen its dynamics and provide more suitable conditions.

1.3 To protect the interest of the people through combating corruption and building a clean government.

The function of administering national and social affairs of government at different levels is very broad in our country. All of the specifically administrative behaviors are connected with the people's vital interest. It is to strengthen the function of combating corruption and building a clean government of the supervision organs that can promote the government and its officials at different levels to administer for people voluntarily, lawfully, scientifically and honestly and industriously. For example, developing the work of leader's honesty and self-discipline can standardize the administrative action of the leaders; and punishing the corrupted person can keep the servant team clean and the government honest; checking unhealthy tendencies of the section and trade can solve the hot and difficult problems concerned by the mass; developing the supervision of enforcing the law can advance the government and its officials to make policy scientifically, seek truth and deal with concrete matters, so as to maintain the legal and essential interest of the mass. Jilin is an agricultural province. The supervision organs of Jilin province have been making reducing the

people's burden as an important job of exerting the supervisory function. In 2000 and 2001, the supervision organs investigated and treated accordingly 872 cases and reduced the people's burden, which amounted to 390 million yuan.

1.4 "Administration by" through combating corruption and building a clean government.

"To administer our nation according to law", which is both the strategy and the aim of our national administration. To carry out this strategy, the state administration and its officials at different levels should act in the range of the constitution and law, and no action for anyone to break the constitution and law, especially corruption. Once someone breaks it, he should be punished. The function of the supervision organs is to supervise the administration and its officials to proceed administration action in the range of the constitution and law, to ensure lawful administration, to investigate and treat accordingly the action breaking law. Hence, without the job of the supervision organs, the strategy and aim of administering our nation according to law will be not able to be carried out and fulfilled.

2. The superiority of combating corruption and building a clean government

2.1 The supporting force is the party in power.

In our country, the Chinese Communist Party is the party in power, which is the leading force of the socialism cause with Chinese feature in terms of politics, economy and culture. The governments at different levels are under the leadership of the Party, and rule the country as the representative of the people. The Chinese Communist Party makes serving the people heart and soul as its principal aim, and shows clearly its resolution to crack down corruption. Therefore, the party is the strong backing force of the people's government, is also the strong backing force of the super-

vision organs. Moreover, by strengthening its leading role in supervision in terms of making supervisory principles, choosing and appointing cadres, arranging supervisory work and giving aid to solve problems relating to supervision, the Party could strongly support supervision organs to carry out the function of combating corruption and building a clean government.

2.2 The law is the basis.

It was in the May of 1997 that *The Law on Administrative Supervision of China* was passed in the 25th meeting of the 8th National People's Congress. In the law, the status, functions, power and working procedure of the supervision organs are stipulated clearly. This law is helpful for supervision organs to supervise the state administration and civil servants, to investigate and punish those conducts that violate administrative disciplines. It is also helpful for supervision organs to supervise and deal with related persons, and prevent them from abusing power.

2.3 The special functions act as a guarantee.

The important functions and tasks of supervision organs are to maintain the government clean, keep the government decree implemented and promote the government's efficiency. The characters of specialty, universality and mandatory of the supervision organs show that administrative supervision is an important method of inner supervision in the government. The specialty of the function of the supervision organ is in favor of combining the supervisory force, adopting special measure to conduct supervision. The universality of the function is helpful to conduct an overall supervision. The mandatory character of the function shows that this kind of supervision represents the purpose of the nation, do not allow anyone to disturb and elude. These special functions and their properties give supervision organs special advantages and more spaces when they conduct supervision.

2.4 It is supported by a perfect organization system.

All of the supervision organs at different levels are established in accordance with the constitution, government organization law and administrative supervisory law. According to the laws, the central government and local governments at different levels have set up the supervision organs. With more than 10 years' effort, the supervision organs at different levels have made considerable progress, the system of administrative supervisory organization has become an important force of combating corruption and building a clean government.

3. Ways to strengthening the function of combating corruption and building a clean government of the supervision organs

3.1 To build up a strict supervisory system for employing, rewarding, and punishing civil servants.

The supervision organs should supervise the work of employing and appointing civil servant, and make strict standard and requirement for being a civil servant. Veto should be used when somebody has problem in terms of honesty and cleanness and not suitable to be a civil servant or leader. The civil servants, especially leaders, must be strictly supervised, and a tight work system and code of conduct should be set up so as to restrict what they say and do. The scope of supervision should be enlarged, covering not only the work but also the lives. The time to be supervised should be extended, including not only the working time but also the free time. The measure of supervision should be flexible and the modern information technology should be used. We should put strict check, rewards, penalties system into practice. Anyone who is not fit or not responsible for his work, especially have problems in honesty and cleanness, will be given administrative disciplining penalty, and those whose

problems are severely must be eliminated so as to form a mechanism that the excellent will win and the bad will be eliminated, and keep the team of civil servants rigorous and energetic. In recent years, the supervision bureau of Jilin Province have supervised the whole procedure of employing the civil servant by examination, carried out the system of “one ticket veto” in appointing the cadres, and implemented the cleanliness – checking system for all cadres. Good results so far have been achieved.

3.2 To set up a mechanism of education and warning.

The supervision organs should take the responsibility of education for all civil servants in terms of serving the people heart and soul, abiding by law and discipline, hard – working and keeping cleanliness and honesty, so as to make all officials incorrupt, and to enable them to stand up the temptation of power, money and beauty. Both positive and negative examples should be used when conducting education. The supervision organs of Jilin province carry out a talk and warning system to make the civil servant correct his errors when he violates the discipline slightly. In 2001, it set up Wang Yanghu, the leader of the Water Conservancy Department of Jilin Province, as an honest model, and made him the good model for all leaders. In 2001, it held the exhibition on the honest construction and anti – corruption, which attracted 50 thousand leaders to visit.

3.3 To set up a family property reporting system.

The family property reporting system is a universal measurement of anti – corruption in the world. All civil servants should be included into this system. The property of the civil servants ranging from their family to their close relatives, including house, car, stock, money, portfolio and etc., should be registered and supervised. Set up a checking system for the income and consumption of civil servant, and a check should be done as any unnormal problem is found at any time. Set up a reporting system for civil servants’ family property. Any large amount income and payoff

should be reported and registered to the supervision organs in time. Set up the system of rewards and penalties. Anyone who expose the economic problems of officials could gain rewards in proportion so as to encourage the mass to join the work of anti - corruption.

3.4 Setting up a standardized inspecting system.

The inspection means that the government at higher level sends out officials to check the work of the governments at lower level in terms of implementation of government decision and honesty and cleanness. The system has been carried out for many years in China and has been proved very effective, but it hasn't become a standardized system yet, and has some problems such as the work is random, contents are too extensive and method is simple. To meet the need of administrative supervision, special organization such as inspecting offices should be set up in the supervision organs at all levels. The inspecting offices should be in charge of organizing and conducting the inspecting work. The inspector and the deputy inspector are responsible for the inspecting work. The inspecting method, the responsibility, task and power of the inspectors should be stated clearly so as to make the inspecting work systematized, standardized and legalized. Inspecting work should pay more attention to the social response, learn about the opinion of the mass, and solve the problems concerned by the mass, especially the problems of the honesty and cleanness. The inspectors should be endowed with powers, such as the power of reading reports, talking, inquiring and investigating, etc. The inspectors are not responsible for reporting to the government to be checked, but report directly to the departments sending them out. The result of inspection should be the important source for valuing the work of local government and the leaders. In addition, the inspecting system should be linked with supervision of law enforcement and cleanness - checking, so as to bring the whole system into effect.

Intensify the Supervision of Law Enforcement and Standardize the Administrative Conduct

By Fan Chuiting*

To establish and build legal order and legal environment geared to WTO, we must intensify the supervision of law enforcement and standardize the administrative conduct. The Law on Administrative Supervision of the People's Republic of China stipulates that the main task of administrative supervision organ is "to guarantee the implementation of government orders and administrative discipline, promote the construction of a clean and honest administration, improve administration, and raise administrative efficiency". Through supervision of law enforcement, administrative supervision can execute valid supervision, standardize the administrative action of government departments during the procedure of maintaining the fair and ordered market, promote construction of a clean and honest administration, and further the development of economic construction.

1. The advantage of the supervision of law enforcement on standardizing administrative conduct

Supervision of law enforcement is the power of the administrative supervision organ according to the Law on Administrative Supervision of the People's Republic of China. The administrative supervision organ is to supervise and inspect the national administrative organs, the national public functionary, and other personnel appointed by the national administrative

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organs to obey and execute the national laws, regulations, decisions and orders of the people's government. Supervision of law executing is the major means of administrative supervision organ to maintain the central authority, assure the unity of government orders, and participate in the administration of government, and play an important role on giving full play to the administrative supervise function, and standardizing the administrative action.

1.1 The supervision of law enforcement has authority.

The supervision of law enforcement is to carry out work according to the functions mandated by the national laws and is protected by the laws, having legal effect and legal authority. The supervised target must obey and execute the supervision decision and the supervision suggestion made by the supervision organs, otherwise the supervised target will undertake legal responsibilities. So, supervision of law executing has characteristics of authority in administration standardization.

1.2 Supervision of law enforcement is all - around.

The Law on Administrative Supervision of The People's Republic of China grants the authority of supervision of law executing not only to supervise the implementation of the national laws and regulations, and government decisions by departments of the government, but also supervise the administrative conducts of the public functionary, and other personnel appointed by the national administrative organs. The supervision of law executing shall not only find and reveal every kind of violation of laws and breaches of discipline through supervision and inspection, investigate and deal with corruption, but also put forward the supervision suggestion, urge the rectifying of rules and building of the organizational system, and perfect the administration according to the administrative loopholes found through inspection. We may say the supervision of law executing involves in every link in administrative organs and administrative management,

covers every kind of administrative activity and administrative action, and has comprehensive characteristics of not only of the working content, but also the supervised target, which determines the overall characteristics of supervision of law executing on standardizing the administrative functions.

1.3 Supervision of law enforcement has characteristic of perspective.

The Law on Administrative Supervision of The People's Republic of China grants the supervision of law enforcement the function of supervision and inspection, which determines the different functional characteristics of administrative supervision organs from other departments of administrative supervision organs, namely, it can not only set up a case according to the arrangement by the Party committee, the government and higher authority, but also set up the case aiming at real situation and hot spots of problem in society, execute the supervision of law executing according to some detailed administrative actions of relating government departments actively. Thus the supervision and inspection can be done before and during the executing of administrative action instead of supervision and punishment after the event. Thus the guard is moved forward, preventing or reducing the damage to the country and the people due to administrative action's mistake.

2. Main approaches of supervision of law enforcement on standardizing administrative conduct

According to the functional characteristics of supervision work of law executing, we shall begin with the following aspects to give full play to the functional role of supervision of law executing, standardize the administrative action, and maintain benign development of socialist market economic orders:

2.1 Carrying out the supervision of law enforcement on the

implementation of national policy.

The national policy is an important decision relating to the overall situation worked out according to the developing situations of politics, economics, and society in certain period, will bring about overall influence were it not well carried out. During the procedure of establishing and developing socialist market economic system and order, some local authorities and departments treated with the national policy with pragmatic attitude from local and present point of view, carrying out that meets with their own interests, and refusing or dealing with passively those do not meet with their interests. The higher authorities have policies, and the localities have their countermeasures. Therefore, this affected the authority and unity of government orders and hindered the development of reformation. So the supervision of law executing should utilize and give full play to the function and power of the law, enhance the supervision and inspection to maintain the unblocked central government orders and assure all of the reforming policies and measures.

To overcome the negative influence of Asian financial crisis, increase the internal demand, and push forward the economic increasing since 1998, the State Council has decided to take positive financial policy, and one of the important measures is to increase government loan by the central government finance, which is used in increasing the investment of infrastructures, etc. The using and management of the government loan have strict discipline requirement because of special role and meaning of it. While in real management of using the government loan, some local authorities and departments ignore the laws and disciplines from local and present point of view. Some managed the funds chaotically and deposited privately the public money, some misappropriated public funds, some breached the infrastructure procedure, did not allocate funds according to the project procedure, and some concealed the true state of

affairs from above and below and defrauds funds of government loan, affected the executing of the national positive finance seriously. To assure reasonable and effective use of the fund of government loan of our province arranged by the central government, and the quality of the projects invested by the government loan, our provincial administrative supervision organs carried out the supervision and inspection to the projects of government loan jointly with the departments of planning, finance and auditing. All of the local authorities and departments of the province inspected 166 projects of government loan, discovered 125 problems, corrected and dealt with 93 problems, investigated and treated 6 cases, and gave 12 persons the Party disciplinary punishment in 1999.

2.2 Carrying out the supervision according to the central work of government.

Viewing from the practice of the struggle against corruption, the corruption phenomenon happened mostly during the procedure of executing the administrative power, such as the corruption action of the deal of power and money, and misappropriate, etc., during the procedure of administrative examining and approving, using of property and reducing of policy, etc. The happening of this behavior mostly resulted from incompetent administrative supervision and control, irregular administrative action, and abuse of power and position. While administrative supervision can use administrative efficiency supervision, the special means which supervise from inner to inspect, check on strictly, and rectify the deviation to the action of applying power inside the government organ on every side during the whole procedure. Supervising and standardizing the administrative actions of government of every level by ways and means of efficiency supervision can give full play to the function of administrative supervision and assure the executing of the work arrangement of the government effectively.

Our province suffered from the heavy flood occurring once in a hundred years in 1998, fighting against the flood and carrying out self – relief work became the central work overwhelming everything in front of our province. Lots of disaster relief funds and goods were allocated and donated by the central government and people at home and abroad. Properly use of the goods and funds can promote the development of fighting against the flood and self – relief work forcefully, and assure of the disaster areas and the residents to tide over difficulties, otherwise will damage the image of our Party and our government, and probably bring about unpredicted consequence to social stability. So we organized the supervision and inspection on the provincial disaster relief goods and the management of funds jointly with related departments after careful research and thorough arrangement. It is estimated that the procuratorate and supervision organs of every level of the province within the current year organized 217 inspections, discovered and solved 75 problems, placed 63 cases on file for investigation and treatment, gave 107 persons the Party disciplinary punishment. The Supervision Department of Heilongjiang Province investigated and treated a leading cadre in a city who preferred life to dishonor and sneaked away at a critical juncture according to the public tip – offs. He was dismissed from his post. At the same time, the supervision department inspected the working discipline during the period of fighting against the flood and relieving disaster, treated some cases of violating discipline of deserting posts. Billions of dollars of funds and goods for relieving disaster of the province were used safely and effectively basically. There were not grave accident happened. The fighting flood and disaster relief work were guaranteed by means of discipline.

2.3 Carrying out the supervision according to the hot spots of society.

Solving carefully the hot issues of society and outstanding problems

reflected strongly by the masses and maintaining the interests of the masses are compelling obligations of the administrative supervision organs granted by the law. During the procedure of transformation of new and old systems, some problems exposed by some departments in system, management and social service, especially some administrative law executing departments, social supervision departments and economic supervision departments had no sense of service, ignored the sufferings of the masses, and showed behavior of infringing the masses' interest because of executing without abiding by the law. So, the supervision of law executing shall supervise and inspect the main problems, which are reflected strongly by the masses and society, and emphasize on the problems that affected the reputation of the government and infringed with the interests of the state and the masses, correct improper administrative action in time, and promote executing in conformity with legal provisions.

Construction field is the easy and intensive area of corruption. It can be seen from the corruption cases relating to the construction field checked and punished in recent years that the cases in the field of construction have characteristics of large in sums, high level of persons, seriously damage to the society, and strongly reflected by the society. Any ignorance of supervision during the procedure of the project from reporting, establishing the project on file, invitation of tendering, and bidding for the project, to the supervision and acceptance check shall result in vital problem. The only measure to manage the construction well is to supervise during the whole procedure, and only supervision of law executing has the function of that. So we lay stress on the construction project. We have carried out the supervision of law executing on the construction project jointly with departments of construction, etc., since April of 1996. Firstly we carried out the tendering for major projects. Secondly we checked and treated mainly the cases that violating the laws and disciplines in the

field of construction. The supervision and construction administrative authorities of every level have done lots of work in respect of standardizing, rectifying, checking and treating the cases in recent years. We put forward last year the target of establishing, perfecting the management procedure of construction, and carrying out strictly the project legal person responsibility system, the system of tendering, the system of project supervision, and contract management system on the basis of rectifying and standardizing of the last several years. We laid stress on checking and treating actions of evading of tender, false tender, subcontracting or transferring the contract illegally, leaders' intervene in the contract of the project, and other corruption in activities of project transaction. Through unremitting effort of several years, the rectifying and standardizing of the market of the province developed healthily, good situation emerged, and the building market orders of our province were improved obviously. The rate of reporting of building, the rate of tendering, the rate of contract checking, the rate of supervision of project that should be supervised, and the rate of issuing of the licenses of construction are raised within large range. Tangible building markets have been set up in 12 region - grade cities and most of counties and cities, and 95% of the construction projects have been put to the tangible market to bid for the project. The quality of the project is rising steadily, and fair, just, and open building market system have formed, the corrupt problem in construction field has been restrained, and the preventing and harnessing of corruption have shown good tendency. During the period from the supervision of law executing of construction project to rectifying and standardizing tangible building market, the procuratorial supervision organs of every level of the province has treated 594 case clues, treated 223 cases on file, punishing 192 persons of violating the Party discipline, and transferring 74 persons to judiciary organs.

On how to give full play to the functional role of supervision of law executing so as to standardize the administrative action, and serve for the economic construction and struggle against the corruption, we consider that:

Firstly, relying on departments of the government, establishing the liaison system of supervision of law executing with other supervision departments of the government, and forming the joint effort of supervision of law executing. Supervision of law executing is a comprehensive supervision department, close to government work and economic building, involving in wide aspects, and having characteristics of policy, business and close relationship with many departments of government. So supervision of law executing shall give full play to the role of cooperation in construction of clean and honest administration and struggle against corruption, enforce the contact with related departments of government, try to gain their supporting and coordinating, integrate the two functions of administrative supervision and business supervision, and form the integrated joint forces of supervision and inspection, so as to intensify the force of supervision of law executing and increase the working effect.

Secondly, quickening the legislation research of supervision of law executing, and placing them on the right track of standardizing and institutionalization. To assure the supervision work of law executing give play to functional advantage truly and standardize the administrative action, we firstly need to standardize the supervision work of law executing. On the basis of summarizing and analyzing the characteristics, law, train of thought, and methods of supervision work of law executing, according to relating regulations, and proceed from the functions of supervision work of law executing, we shall determine the working properties, task, measures, and procedure of supervision of law executing, come to grips with legislation work of supervision work of law executing, let the supervision

work of law executing have rules to follow, carry out the supervision of law enforcement strictly, and ensure the supervision work of law enforcement develop on the track of legalization.

Reforming the Systems and Pushing Forward Anti – corruption at the Source

By Meng Qingzhong *

Looking back on the history of the struggle against the corruption since the 1990s, Shanghai has seen distinct achievements in its combat against corruption and the building up of a clean government. In accordance with the arrangement and requirement of the Central Party Committee, and taking into consideration our city's actual situation, the characteristics and rules of corruption under the conditions of the socialist market economy are constantly explored and studied, with the attention paid to the clean – government construction based on the “three – in – one” combination of system, mechanism and rules. The frontline of the administrative supervision has been actively moved forward. Two institutional and ideological defense lines were thus set up to effectively keep corruption within limits.

According to incomplete statistics, Shanghai's supervisory organs at the municipality and district/county level have issued over 140 documents since 1993 to plug up the “loopholes” of corruption, to keep away the activities of seeking personal gains by abusing public power, and to cut off the “umbilical cord” of power – money transactions, so as to ensure that the power will move along the systematic and institutionalized track.

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I . Insisting on the educational system of a clean government for leading cadres

To prevent corruption, the most important and fundamental thing is to enhance ideological and ethical education on cadres and to improve the quality of cadres, especially the leading cadres in power. A cadre's honesty depends mainly on his/her internal factors, i. e. the self - consciousness. Without this, even the best system and the best anti - corruption measures would be powerless. For this, the Shanghai Party Committee and the Municipal Government held, every year from 1993, two educational activities for a clean government among the cadres at bureau level and above, on which occasions leading cadres are required to improve their personal quality, hold power for the people, take lead in following the clean government principles and to lead the massive cadres to practice the "Three Represent's Theory". Rules have been set requiring a clean government education within the whole city including each district, county and each committee or bureau. At the same time rules have also been set requiring educational activities featuring the theme of a clean government once every year in the whole city. The educational activities on moral, discipline and hard - working have been conducted with aims, at different levels and in various forms according to the ideology and work reality of cadres with different work experience and ages. Vivid education as films and videos has also been adopted. While the sensational film "Fatal Decision" is viewed as a positive education, corrupt cadres' life trail and their confess in the prison are the subject matter for admonishing education. Besides, verbal warning systems have been built up to whistle the cadres with minor mistakes found out by the masses. With all kinds of unremitting education for all these years, the self - discipline and self - control ability of the massive cadres has been enhanced, which has laid a solid

foundation in ideology, moral and lawful discipline in the combat against corruption and for a clear government, and build up a solid ideological defense line in preventing corruption at its source.

II . Setting strict self – discipline standard distinguishing the public power and personal interest

The corruption nature is to seek personal advantage by abusing the public rights and at the cost of the public rights and interests. Therefore only when there is a clear boundary between the public right and the personal interest can the two parts be clearly demarcated and the leading cadres' life and their working places be purified. In this way the personal rights will not intrude into the area of the public power and personal advantage will not be gained by abusing the public power. The administrative supervisory departments at all levels across the city help the government and some administrative organs set a series of rules. They mainly are: (1) Strictly forbid individuals with public powers to be engaged in business, and strictly limit the scale of personal investment by the leading cadres. (2) A regulation was made on the leading cadres' part – time employment in the enterprises. (3) Clearly stipulate the scale of business and employment for spouse and children of the leading cadres to avoid the defects to seek for family interest. (4) Standardize the means and expenses used for communication, transportation and office facilities. (5) Clear regulations about living treatment were made to avoid the defects to seek dwelling by taking the advantage of one's post. (6) Regulations about gifts, presents, gift certificates were made, and strictly limit the scale of banquet at the cost of the public. The carrying out of these regulations has effectively prevented corruption from spreading.

III . Building up a supervision mechanism of administrative policy – making power

Policy – making power is the key in exercising authority . Scientific and reasonable allocation , necessary and proper balance and restriction must be given to the power limits from the beginning of the exercising process of power limits . In order to keep the power under control to avoid corruption , relevant regulations on policy – making procedures and principles and monitoring have been made by the administrative organs and state-owned enterprises at all levels . For example , with the ever – growing law – breaking activities in the 3 fields of land lease , project contract and real estate development , the Shanghai Supervisory Committee drafted and issued in 1996 , in the name of the Municipal Party Committee and municipal government , the “Regulations on obeying working rules and keeping uncorrupted for staffs of the Party and government organs in land lease , real estate development and project contract” . And also according to its decision – making rules and the code of conduct , they set disciplines , which efficiently prevented anybody from abusing public power and ignoring regulations and rules . A few years ago in some state – owned enterprises , the government – owned assets were run off , which was caused by the poor management and the disorder in decision – making . In view of this , the Municipal Supervisory Committee , together with some other departments concerned , jointly established the city’s “Treatment Measures to the Responsible Persons for the Loss of the Government – owned Assets in the State – owned Enterprises” , thus creating the system that important matters must be dealt with through collective discussions . There must be the process of decision – making , rules of procedures , code of conduct , and restrictions on breaking rules and regulations . These systems have perfected the procedures of decision – making inside enter-

prises and strengthened the supervision inside and outside enterprises, which has resulted in the control of the tendency of law - breaking by the enterprise leaders and effectively held back the existing corruption in the state - owned enterprises.

IV. Bringing government affairs into publicity, and strengthening the restriction and supervision systems on the administrative power

The nature of the disclosure of the government affairs is the disclosure of the power exercise, which is the basic attribute of the public power. The disclosure of the government affairs should be the embodiment of the function and the duty of the state organs and their staffs. It should also become the essential procedure of carrying out government orders in the social management. Facts show that the opening is the best preservative. So early in 1988 in Shanghai, the system of "two openings and one supervision" began to be practiced, i. e. open principles and open results; acceptance of the people's supervision. Based on the practice for many years, the Municipal Supervisory Committee drafted in 1998 decisions on the system of practicing the opening of the government affairs and later issued in the form of the documents of the Municipal Party Committee and the Municipal Government. This decision makes definite the concrete departments, forms and requirement. It creates a system of "one, two and three", i. e. one office dealing with relevant affairs, combining the rights of acceptance, examination and approval; making them separate in procedure, and yet restrictive with one another. A case must be completed for no more than TWO visits by the person concerned. The functional organs are required to have THREE separations for personnel, venue and procedure during the course of administration procedures or services. Meanwhile the examination standard was established, with the purpose to check

“the opening rate”, “the pass rate” and “the completion rate”, which has opened up a prospect where the system standardizes the conduct of the leading cadres, the discipline restricts the exercise of power and the guarantee of system supervises the whole procedure of the exercise of power. Now all the suitable government departments and their branches down to the organs at the basic levels have brought the government affairs into publicity. Even some mass – organized village committees and public utility service stations (water, gas, electricity, postal service, telecommunications and so on) have also brought into publicity the public service items and service procedures. Courts and procuratorates at all levels and other judicial departments in the city also brought into publicity their affairs. In 2001, with the municipal offices for legal affairs, the Municipal Supervisory Committee built up the system of notification of deepening the opening of government affairs, practicing administrative investigation, administrative enforcement and administrative punishment, requiring all the law enforcement organs, when executing the law affairs, to show in public the contents, basis, procedures and the right of the person concerned at the executing venues, to the relative persons of the administrative management and in the law documents. Thus the whole process from the administrative allowance to the management, and from the administration to the execution, is under the supervision of the relative persons of administrative management and the administrative execution. Many administrative negatives or administrative torts and other corruption can be avoided.

V . Standardizing the market conduct and building up the mechanism of market operation management

Market is an “invisible hand”, while the government conduct is a “visible hand”. In a society where the market economy has just been set up and is not yet mature, it is very easy for some government organs and

their cadres with special administrative power in hand to do jobbery and power - money deals by abusing the public power, during the process of market order under government supervision. So, to standardize the market conduct and set mechanism of the market operation management and supervision is the key move of our country's structuring the socialist market economy and rectifying and standardizing the market order. According to the existing situation in Shanghai, the Municipal Committee and some departments concerned put the emphasis on the system construction of the four markets.

↙ (1) **Standardizing the stock and securities market.** As early as in 1993, we made regulations on stock purchasing principal party, conduct of stock purchasing and the procedures of stock selling. This had much favorable effect on stabilizing and standardizing the stock market at that time, and ensured the good development of the stock market. In the late 1990s, in view of existing situation that, by taking the advantage of the internal information of the capital recombination of the listed enterprises, a few people sought personal gains illegally, the Municipal Supervisory Committee and the Municipal Document Management Office jointly established "Regulations on Strictly Obeying Discipline to Keep Secret during the Work of Capital Recombination of the Listed Companies in Shanghai". Pertinent regulations were made for the examination and approval time of capital recombination, the shareholder meeting, the reveal of the news and the work of keeping secret, etc. This ensured the legal practice of the capital recombination and efficiently prevented the potential corruption.

↙ (2) **Building up and improving tangible construction market.** In the whole 1990s, Shanghai saw an average of over 100 billion investment in construction projects. The scale of the construction market expanded dramatically, and for some time the competition got out of order

and law cases frequently took place. In order to solve the problem at its source, from the beginning of 1995, the Municipal Supervisory Committee and the departments concerned jointly set a series of management regulations such as "Several Regulations on Strengthening the City's Construction Projects Management". Gradually, the 4 - level tangible construction market system took shape in the City, including the city - level business center of construction project management, professional sub - centres, building materials management sub - centres and the agents. The construction market goes from the intangible to the tangible, and from the disordering to the ordering, which has brought to life the competitive mechanism of being open, just and fair. As a result, the amount of construction projects is increasing year by year, while that of the accusation and impeachment cases is decreasing by 30% since 1996.

(3) **Setting up the business market of the property right.** In order to develop and standardize the deals of property rights and to prevent the personal gains by abusing the public power and the loss of the state assets, we, together with the State - owned Assets Management Office, jointly established "Several Ideas on the Further Standardizing the City's Business Market of the Property Right", prescribing that the transfer of property right of the state - owned enterprises must be carried out in the open within the property right market. Any deal in private outside is absolutely forbidden. Also the procedures and supervision of the deal are regulated. Now there are 3 property right exchanges at municipal level and the total annual volume of business has reached up to 60 billion, with few law cases.

(4) **Standardizing the exchange market of the land operation right.** Since the 1990s, in view of the problems in the land leasing, the Municipal Supervisory Committee and the departments in charge of the house and land management established a series of 13 legal documents,

such as "The Remising Method of the Land Utility Right in Shanghai", standardizing the conduct of the land transaction market. Meanwhile, we have strengthened the supervision over the use of construction land, planning, capital, finance, examination and approval, which has made the land leasing conducted in a healthy and orderly way to efficiently prevent corruption from breeding.

VI. Reforming the system of finance and purchasing, and strengthening the mechanism of finance supervision

Any behavior of corruption and the deal between power and money can seek advantage from the imperfect finance system. To strengthen the finance supervision, plug up loopholes existing in finance and stop or deduct corruption opportunity is the most important subject for the exercise of reform and market economy in all the developing countries. By practical exploration, we have carried out the reform of finance system in three fields. (1) From the mid of the 1990s, in order to change the state of "accountants around the cadres", the system of accountants appointment was set up in the township enterprises and then the methods of "joint village account", "village account run by township" and "appointed accountants" were adopted on a trial basis. Thus a 2-level finance supervision system was formed at township and village levels. (2) In view of the supervision of income and expenses in the law enforcement organs, a management method of "2 lines of income and expenses" was adopted to deal with the administrative charge and the amercement. A new management system has been set up with unified bills, bank entrustment and the separation of income and expenses. The earnings of the administrative departments were paid according to the newly-established system of income and expenditure in a unified way. (3) The municipal government issued the "Management Method of Shanghai Municipal Government Procure-

ment", and established committee and offices for purchasing. A unified purchasing takes the place of scattered purchasing by each unit, reducing the deal cost. The former "1 to 1" contract purchase is now changed into open bid purchasing, reducing the corruption chance for obtaining commission and their under-table operation.

Facing the new opportunity and challenge after our country's entering the WTO, the administrative supervision must keep step with the times, put the reform into practice and make innovations and further play its important role in the battle against corruption and for a clean government. To be specific, the reform of the system of administrative supervision must be put into practice so as to meet the objective needs of the situation of entering the WTO. The system of administrative supervision must perform its function of integrated joint forces to encourage the masses to combat corruption to the end. The administrative supervision organs must enhance its own quality and try to develop the ability of handling cases and supervision. The administrative supervision organs must be further governed by law, and build up the administrative supervision authority.

Adhering to System Innovation to Prevent and Address Corruption at the Source

By Xie Xiulan *

Under the circumstance of socialist market economy, the improvement and enhancement of administrative supervision is the de facto need for the reinforcement of state power as well as the interior requirement of the socialist democratic and legal construction. In recent years, based on the requirement to build an honest, diligent, pragmatic and efficient government, the supervision departments at all levels in the province have regarded the source control in the anti - corruption as the top priority while addressing the problem of corruption itself. It is integrated with the government work by combining the administrative supervision with the business of the government branches. It is integrated with the economic work by concentrating on and resolving major problems. It is also integrated with the deepening of reform by further exploring the ways and approaches to prevent and address the problem of corruption. In this way, it has effectively improved the integrity, diligence, pragmatism and efficiency of the government at all levels and provided a favorable system environment for the acceleration of economic development.

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I . Adapting to system transition , concentrating on the regularization and monitoring of administrative performance and pushing forward the system construction

Jiangsu enjoys rapid economic development as well as a high level of market and foreign - oriented economy . Therefore , it is one of the earliest to meet the problems in the system transition . Since the 1990s , the negative side of the political - economic and political - corporate system has been increasingly obvious . Especially the government administration approach , featured mainly by administrative approvals , has not only become the bottleneck for enterprises to operate according to market rules , but also induced corruption due to unregulated and non - transparent operations . In 1994 , Suzhou and its subordinate counties and municipalities took the initiative to cut down the ruling power of the government , after which all local governments and even the provincial government all adopted similar measures . It is our view that this was an important measure in the source control in anti - corruption , helpful to the government thrift and diligence as well as administration of government by law . It would give more help to the government to lead this reform and put all requirements into effect if this was addressed from the stand of the administrative supervision and administrative supervision's advantage was put into full play . Therefore , the Provincial Supervision Department took an active role in this program from the very beginning , working with relevant departments to regulate and guide the practices of the local authorities to cancel as many as possible the procedures which were clearly cancelable , merge as many as possible the procedures which could be merged , specify the deadline for procedures which could not be cleared within the day of application and rule all applications which receive no response beyond the deadline as approval . At the same time , it also encouraged departments to

implement one – stop administration and one – procedure service. Application which required multi – department approvals would be approved jointly by all the departments under the lead of the primary responsible department. For departments which have many approval items, service windows should be established. For applications which needed the approval at higher levels of government, the responsible department would appoint specific people to open a “direct route” to handle the application. All these measures effectively promoted this reform. In the year 2001, on the basis of the significant reduction of the approval procedures, the provincial and municipal government again cut down the procedures by 36.7% and 42.2% respectively. Now, on the basis of China’s entry into WTO, a new round of approval system reform has been started.

At the same time we cut down the power, we also placed importance to the restraint and breaking down of power. In 1992, Luzhi Township initiated accountant appointment system which changed the practice of employing the accountants by public – owned enterprises and government-funded entities themselves to the practice of appointing accountants by the government, which helped to restrain the responsible people and prevent the public asset from draining. We summarized this practice and gradually promoted it to many fields. In 1996, we worked with the financial departments and selected some counties and cities to try out the one account management for fund both in and out of the budget to turn off the “water tap” outside the account. Now government departments on provincial, municipal and county levels have all implemented separate revenue and expenditure for the fund out of the budget. Since 1998, by our proposal, all governments in the province have implemented collective purchase for office supplies and services. Last year, the collective purchase accounted for more than 10% of the financial expenditure. In 2000, while making analysis on the financial management of the local authorities, we went on

a research and study to other provinces with the Provincial Financial Department. On this basis, we proposed to the provincial government to adopt departmental budgeting. In addition, we also actively summarized and promoted systems including relative exclusion system, corporate executive retirement auditing system, infrastructure project legal person responsibility system, official's house approval system and major issues reporting system in the purpose of avoiding and reducing corruption by changing the power structure in which the minority has the say and making it impossible for any person or department to entirely enforce a certain power.

It is an important responsibility for the supervision department to review, check and correct the enforcement of the administrative power. In these years, we have concentrated on two key points. The first is to enhance the supervision and monitoring on the administrative leaders and important positions by measures such as alert conversations, exchange of positions, establishment of discussion and decision making system and integrity responsibility investigation system to ensure the legitimate and justified power implementation and promote the proper administrative power implementation. The second is to enhance the supervision and monitoring on key projects. For the 11 national and provincial key projects such as the Shanghai - Nanjing Expressway and Second Yangtze River Bridge, on the one hand, we implemented whole course supervision and monitoring by dispatching supervision teams and on the other hand, we helped them to established regulated management system to enhance the interior restraint. The total investment of these 11 projects reached 90 billion yuan. The excellence percentage of the completed projects reached 100% and no major corruption cases were found.

We realized that many multinational companies did not care too much about the preferential policies in the investment decision making but

paid attention to the favorable market environment and regulated operation mechanism, which are dependant on the level of the government system construction. Therefore, with China's entry into WTO, heavier task in the system construction is facing us to complete.

II . Introducing market mechanism to optimize and configure resources and creating an open, equal and fair competition platform for the economic entities

In the system transition period, there are still many resources under the direct control of the governments at all levels. The land, capital and other major economic element markets as well as the corporate property right market are still not complete. In some fields which are under more controls, such as the city passenger transport route and vehicle arrangement, government public projects, allocation of foreign trade quotas, reduction and exemption of tax, licensing of the production and operation in certain industries and land leasing, rent - seeking activities unavoidably exist. To address these rent - seeking activities, the best way is to replace administrative measures with market measures as much as possible and reduce "black box operation" to enable the whole society to equally participate in the competition. As far as this work is concerned, much can be done by the supervision departments.

Since 1996, on the basis of the management of construction projects, we have spent 5 consecutive years to establish open, orderly and competitive construction markets on which all contracting transactions of construction projects have to go through the procedures such as qualification pre - examination, bid opening, bid evaluation and bid determination to realize open information and fair transaction. Since the on - the - spot Conference on the Tangible Market was held in our province in 1998, we have further revised and improved the whole set of regulations on tender

base compilation, bid evaluation and determination, appraisal juror pool management and work discipline. Especially for all procedures in the bid invitation and bidding, regulations and systems which can be operated and examined have been established. Later, to address the issue of the excessive power concentration on the bid management people, which might induce the problem of playing both as the referee and the player, we split the function between the Tendering Management Office and the Transaction Center and implemented section responsibility system on the tendering management. At the same time, we put second level contracting such as the special contracting and labor subcontracting in the market for fair transaction. The practice of "invitation for bids without base, evaluation of bids with base" was actively promoted. These practices effectively curbed the corruption in this field. Malpractices and unlawful practices decreased significantly year by year. In recent years, we have promoted these practices in such fields as medical purchase, new machinery and electrical equipment purchase and land approval and lease and have achieved positive results.

At the same time, we have also promoted public auction system, putting confiscated merchandises, taxi operation licenses, key projection production qualification, state - owned land use rights on public auction, letting the bidders compete fairly and turning all revenue to the treasury. For example, Nanjing took the initiative to put the passenger and cargo route combination on auction for lease in 1997, which led to the end of monopoly of state owned enterprise and beginning of the dynamic multi - economic entity participation situation. Now this practice has been promoted throughout the whole province. This not only effectively put an end to the negative results brought about by the priced invitation for bidding by administrative means but also prospered the country and brought convenience to the people.

We have also realized that in the market economy, the service offered by government to enterprises and citizens is also the implementation of a contract. For this, in recent years, by means of administration attitude review and service attitude survey, we have encouraged all the departments to administer by law, regulate their service and establish a whole set of service system which is in accordance with the international practice. The City of Huai'an established the "service attitude hotline" and holds an large outdoor comment and review activity every two months, on which government department leaders talk to the citizens face to face to solve problems on the spot or give a deadline for response, thus shortening the distance between the government and the people. Nanjing launched the activity of "inviting the people to judge the government". Recently, according to the result of the reviews by ten thousand people, the city government decided to dismiss two bureau directors from their posts and held warning conversations with other three bureau directors on the bottom of the list.

III . Giving importance to the interest mechanism to guide people's behavior orientation and ensuring a thrifty government through positive system arrangement

Administrative supervision is often on the juncture of the political and economic surfaces. This means that to do this job well, we should not only look at the whole picture from both surfaces, but also manage the source by both approaches. For example, for the extravagance in public activities, we paid attention to the role of ideological education and regulatory restrictions but failed to achieve a desirable result. Apart from the expenditure remaining high, there were also some possible hidden corruption practices. To change this situation, in recent years, we have tried in grass root authorities to monetize the non - production expense and allo-

cate some expense within a certain range and link it with the work responsibility and personal interest. After gaining the experience, this practice will gradually promoted to the higher levels.

In 1997, we also assisted relevant departments in reforming the communication fee management method by compiling regulations for the management of the government – paid house phones and mobile phones of leaders of public affairs departments and entities funded by fiscal allocation. Ownership of all such phones was transferred on discount. The method of “getting a lump sum subsidy, paying the excess by oneself and retaining the balance for oneself” was implemented on some officials. This method has achieved good results since implementation, saving over 36 million yuan of communication fee as well as a large sum of phone updating expense.

In the clearance of the government – paid houses, we have both given out strict restrictions and adopted market measures. Those who bought the government house at low price were required to pay the margin according to market price. Those who bought the new house but still occupied the government house were required to either return the government house or pay for it. Those who bought the house at preferential prize but contracted to build new houses were ordered to stop building or sell it on the market. At the same time, transaction regulations were compiled and operation procedures were regulated.

We have also realized that in the market economy, development of a good civil servant team has to be achieved through the constraint by strict system and discipline on the one hand and performance guidance and policy incentive by interest mechanism on the other hand. “Blocking” and “channeling” have to be stressed at the same time. Therefore, we fully supported provincial and some municipal governments to try out the guarantee fund system, which, on the basis of the significant increase of the

civil servants' annual income, takes part of it as the integrity fund which will be returned on retirement if they abide by law in the term of office. This practice is actually a conduct to change the immediate cashing to the conditioned future cashing. To some extent, it is an experiment to increase the corruption cost for the civil servants.

In these years, the supervision departments all at levels in the province have been exploring new ways to control the corruption source through system innovation. Generally speaking, the political and social mood in the province are favorable, the quality of the people and the civilization level of the society have been improving, which set a solid political base and created a positive social environment for the social and economic development. In recent years, all kinds of surveys sponsored by statistics departments have shown an annual gradual increase of the satisfaction in governments at all levels, all trades and industries as well as all aspects of the society by all walks of life in the province. They all held the view that the anti - corruption in our province has achieved fruitful results. This not only is a remark by the people to our work but also shows the natural unalienable relationship between the spiritual civilization construction and integrity construction. This is not only an important social resource for us to put anti - corruption into real effect but also an important inspiration for us to further control the corruption source.

Intensifying Institutional Innovations to Improve Government Administration

By Zhang Meifeng^{*}

Administrative supervision is a key link in the internal supervisory system of the state executive organs, thus playing a vital role in building a clean government and punishing and preventing corruption. It also plays an irreplaceable role in promoting institutional innovations, raising the administrative efficiency and improving public administration. Over the past years the organs of administrative supervision of Zhejiang Province have been acting in conformity with the requirements of the Three Represents Theory (of representing China's advanced social productive forces, advanced culture, and the fundamental interests of the largest number of the Chinese people). By giving full play to its administrative functions, the Provincial Bureau of Supervision has introduced new concepts in institutional innovations: It has conducted reforms in the systems of administrative examination and approval, financial administration, and personnel administration; standardized the "three powers" (i. e., the exercise of power in the three areas of administrative approval, finance and human resources); and constructed "four centers" (the Center of Administrative Service, the Center of Accounting and Checking, the Center of Bidding, and the Center for Complaints about the Economic Development Environment). All these measures have significantly contributed to improvement of

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public administration, creation of a favorable investment environment, and prevention and punishment of corruption.

Any major institutional reform has profound economic reasons, and Zhejiang's institutional reform is no exception. Since China launched its reform and opening-up in 1978, Zhejiang Province has been economically dynamic. Located in the economically advanced coastal areas, Zhejiang became market-oriented early. Now its economy prospers and the market mechanism has been adopted extensively. A new situation has arisen characterized by coexistence of economic entities of various ownerships, diversified modes of distribution, integration of rural and urban economies, and complicated interaction between various interest groups. What is especially worth noting is that non-state-owned economies have been developing by leaps and bounds, now accounting for more than half of the province's total GDP. Coupled with this change is a rapid and all-embracing switch from the planned economy to a market economy. Moreover, the people have increasingly developed modern ideas related to the market economy such as a sense of being the masters of the country, a sense of competition, a sense of innovation, a sense of efficiency, and a sense of rule by law. The deep-going changes in the society, economy and public notions have raised a higher demand on public administration. In the light of the situation, the Bureau of Supervision has strengthened its functions in consultancy, coordination, supervision, efficiency control, case handling, etc. so as to improve its public administration. By standardizing the three powers and constructing the four centers, we have gradually set up a power mechanism featured by a rational structure, scientific distribution, logical procedure, and mutual constraints.

—Standardizing the power for administrative approval, constructing an administrative service center, and improving the public administration service. On the basis of the appropriate functions of government de-

partments under the market economy condition and in response to the requirements for an administrative system of high efficiency, smooth coordination and standard procedure, we have promoted reforms in the system of administrative review and approval, improved the administrative modes and methods. All items that were subject to examination and approval have been canceled if they do not comply with the principle of separation between government administration and enterprise management or if they interfere with market opening and fair competition. All projects for which a market mechanism can replace administrative approval shall follow the methods of open bidding or auctioning. If a project does need administrative approval, the approving procedure shall be simplified and the period of approving shall be shortened. A scientific, standard and efficient procedure has been formulated. A mechanism for restricting the examination and approval and a mechanism for after-the-approval supervision have come into being. By now, the items that required approval by provincial government departments have been reduced by 58 percent, and the items that required approval by municipal and county departments have been cut by more than one third. Furthermore, the time for examination and approval has decreased considerably, and the approving procedure has gradually standardized. Meanwhile, to solve such problems as multiple-department and multiple-place approval and "opaque operation", various municipalities and counties have set up their center of administrative service, which can combine the approving and certifying business of various functional departments. By means of "one-stop examination and approval", "package service" and "window service" (which facilitates objective processing of documents), we have greatly improved our working efficiency. By utilizing the Internet, some administrative organs have offered online processing service. Thus, while in their own offices, investors may, through the Internet, send in application and fill in forms; they may also, via our webpage,

inquire about the process of examination, approval and certification. Obviously, an administrative approval system marked by openness, fairness and efficiency is coming into existence.

—Introducing the market mechanism, building the center for bidding and auctioning, and enhancing the competitiveness of public administration. While reducing the links in the examining and approving procedure, we also strive to substitute the market mechanism for administrative approval in such projects as construction engineering projects, government procurements, leasing of land use rights for business purposes, transactions of assets of state-owned and collectively-owned enterprises, leasing of taxi operation permits, and leasing of stores. The establishment of a bidding and auctioning center and a procurement center for the above projects can not only reduce the possibility of designated leasing and deals between power and money, but also improve the quality of the project, commodity and service and save money. In 2001, 99.63 percent of the construction projects of the province were advertised for bidding, and the government departments at the provincial, municipal and county levels made a total of more than 10,000 procurements, thus saving 445 million yuan and cutting the costs by 12 percent. Many localities held public bidding and auctioning on the right to business-purpose land, the right to state assets, and the right to taxi operation. Consequently, the state revenue increased, and loss and devaluation of state assets were largely prevented.

—Standardizing the power for finance, establishing an accounting and checking center, and restricting public-finance expenditure. Some years ago, as a scientific, rational system for financial administration was not yet set up, there were loopholes in the administration of funds, especially extra-budgetary funds-loopholes that not only led to corruption, but also increased the burden on the enterprises and the public. This means irrational disposition of funds. To solve the problems, we have launched

reforms in financial administration. After cleaning up extra-budgetary funds, we have now introduced a strict separation between income and outlay in the field of administrative charges, founded an accounting and checking center, and achieved "four unified administrations" (unified administration on charges and fees, unified administration on financial accounting, unified administration on appointment of accountants, and unified administration on income distribution), which, therefore, cover all kinds of financial funds. This means that the government has achieved an all-round, whole-process supervision over financial funds, especially extra-budgetary funds, increased the revenue, stopped the financial leaks, and improved the finance for the public. Meanwhile, we have reformed the modes of payment and appropriation of financial funds, practiced the system of centralized collection and payment by the state treasury, formulated methods for government procurement, standardized the procurement activities, intensified the reform of replacing fees with taxes, gradually established a system of government incomes based mainly on taxation, accelerated the construction of public finance, and endeavored to set up a standard operational system for public finance.

—Standardizing the power for personnel management, establishing an internal incentive mechanism, and mobilizing the public servants to render active service to the people. With the state executive power in hands, government officials can indeed exercise the power to benefit the people, but they can also evade and shift responsibilities, or even abuse the power to seek personal gains and commit dereliction of duty. Therefore, the establishment of an internal mechanism of incentives and constraints is essential to guarantee that the public-related power serves only the state and the public. In the recent years the administrative organs at various levels have deepened the reform of personnel management, popularized such methods as public selection of officials, competition for vacant

posts, one official serving on different posts in rotation, and two-way selection between a government department and a candidate for employment. Thus, a congenial environment in which competent people can distinguish themselves from the rest has been created. Also, a dynamic mechanism is established under which officials can be either promoted or demoted, new personnel can come in while old personnel can move out, officials are stimulated to greater efforts, strict supervision is imposed, and talents who excelled others emerge from competition. The mechanism can surely motivate the public servants to make active and creative use of their administrative power to serve the public.

—Widening the channels of supervision, setting up the center for complaints about the economic development environment, and ensuring high efficiency in public administration. Efficiency constitutes an eternal theme in improvement of public administration. Monopoly is typical of public administration, which, therefore, tends to be characterized by low efficiency. Now that market competition is becoming increasingly intense, especially after China's entry into the WTO, it is progressively urgent to promote diligent and excellent administration. In the past there were not supervisory channels to provide quick feedback on the effectiveness of administrative reactions to complaints. This could affect the building of a clean government and lowered the administrative efficiency. Therefore, when an administrative supervisory organ is performing its functions, it must attach more importance to the issue of diligent and excellent administration, widen the channels for complaints, strengthen supervision on the administrative efficiency, establish a system of quick feedback on administrative effects, institutionalize the public supervision, so as to guarantee efficient and clean administration. Encouraged and promoted by the administrative supervisory organs at various levels, all municipalities and counties have established the center for complaints about the economic devel-

opment environment, which handles complaints from the public and economic entities and punishes acts that hinder economic development. This has given impetus to promotion of diligent and excellent administration as well as improvement of the economic development environment.

—In the standardization of the three powers, vigorously setting up the appropriate procedure, administering according to law, and emphasizing the conformity of public administration to the pre-set procedure. While standardizing the three powers, we have actively promoted the construction of the procedure, conducted administration according to law, and continuously improved the standardization of public administration. First of all, the administrative procedure is reformed and standardized. In compliance with the WTO requirements, the administrative organs at all levels have sorted out the existing administrative rules and regulations, annulled the unnecessarily complicated and costly procedures, and set up the system of a deadline for fulfillment of an administrative responsibility, and introduced a simplified procedure, an emergency-handling procedure and a pre-set procedure. These procedures contribute to standardizing the government's actions as well as improving the efficiency in policy-making and administration. Secondly, a fairly complete system of administrative responsibilities has been set up. Following the principle of unification of power and responsibility, we have clarified the scopes of various administrative responsibilities. Administrative leaders and the officials directly involved must bear the legal responsibilities if they fail to perform their administrative functions, delay in performing their functions, deliberately create difficulties, or abuse their power to seek personal gains. Up to now, the various administrative organs have set up a series of systems such as the first official the client approaches taking full responsibility for the case, the committed service, and public announcement upon completion of a case. These have perfected the procedure of public administration.

—In the course of the construction of the four centers, promoting the openness or transparency of public administration. To open the administration means to open the administrative procedure, which entails citizens' participation in the administration. Just as the sunlight is the best disinfectant, the openness of administration can protect citizens' right to supervise the government's work and investigate whether the government officials can administer according to law and overcome bureaucracy. In the construction of the four centers, we actively promote open administration and the "Sunlight Project" in order to increase transparency in public administration. First, the administration at the provincial, municipal, county and township levels must all be opened to the public, with the exception of a few items that are classified as confidential. This means that administrative rules and regulations, government documents, minutes of the meetings, and the procedure for exercise of the power must all be open to the public. Second, priority is given to the openness of these sectors: planning, the economy, trade, industry, commerce, construction, finance, taxation, and public security. Openness is emphasized in areas of resource disposition, project examination and approval, bid invitation, examination of a company's financial status, and policies on tax and fee collecting. The administrative procedure and the various links of the procedure should be open to the public. Third, the channels for publicizing the institutional innovations have been widened to include not only government announcements and guidebooks on how to undergo the procedure, but also mass media, multimedia, and the Internet, which provide the public with free information on the service items, the administrative procedure, the deadline for completion of a case, the fee levels, etc. The openness of administrative affairs has put an end to the situation in which the public do not have the same amount information as the government. Now the administration is subject to public supervision and has become far more transparent than

before.

Through the institutional innovations, standardization of the three powers and construction of the four centers, we have raised the administrative efficiency, curbed corruption, improved the investment environment, and optimized the public administration. In 2001 an all-round progress was achieved in the province's work on foreign capital absorption: the number of newly approved foreign-invested enterprises, the total foreign investment, the contracted foreign investment, and the actually utilized foreign capital registered growths of 40. percent, 99.5 percent, 99.9 percent and 37.1 percent respectively, all hitting all-time highs. Over the past years the rate of the people's satisfaction with the anti-corruption campaigns has kept rising. Facts show that the standardization of the three powers and the construction of the four centers constitute an effective way of improving public administration. So long as we can persist in institutional innovations and, on the basis of summarization of successful experience, keep deepening and improving the reform, our administrative supervision can surely promote clean, diligent and excellent administration of the executive organs.

Administrative Supervision—An Important Way to Promote Administration by Law

By Chen Luxiang*

Governments throughout the world are faced with the task of improving their administration. With the information age and economic globalization coming, particularly the intensification of competition in comprehensive national strength, it is urgent that all governments shall make their efforts to improve their public administration, boost the government public policy-making ability, public administration and service.

It is a comprehensive systematic work to improve government administration. Administrative supervision is a vital part of the work, which plays an important role in improving government administration. From the public administration point, the administrative power is characterized by its broad scope of jurisdiction, free right to administer, and with the state force as guarantee. It is a state power which bears close relationship with the people and legal entities, as well as the power that is most dynamic and easy to be abused. To prevent the possible negative effects and corruption in the process of administration, supervision over the government departments and personnel must be strengthened. China has long put great emphasis on the administrative supervision, and formed a system of administrative supervision, which includes supervision from the state, the Party and the people. Among those, administrative supervision occupies an important position for its specialty in supervision function, justice in

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its stance, comprehensiveness and imperativeness of its supervision. From the perspective of administrative supervision law, the object of administrative supervision has been consistent with the main body of government administration. The function of administrative supervision is consistent with the aim of improving government administration. The supervision department has the right to check, investigate, advise and punish the government departments and personnel.

Since its rehabilitation and reorganization in 1987, the supervision departments in Anhui province have played an important role in improving government administration and promoting economic development, with the economic construction as the central task and the establishment of an honest government and anticorruption campaign as the key tasks as planned by the central party committee and the state council. Based on the administrative supervision practice in the province, its importance may be summed up in the following four aspects.

1. Administrative supervision is an important way to promote administration in accordance with the law

Administration in accordance with the law is the primary goal of promoting government administration. At present, we are still in the transformation period from the planned economy to the market economy, a time when it is easy for a vacuum of administrative power to exist, causing loss in administrative ethics, abuse of administrative power, and the absence of administrative responsibility. Therefore, we must administrate in accordance with the law. Administration in accordance with the law is another important strategic decision following the decision of rule by law, stressing that all administrative departments must administrate in accordance with the law, and safeguard the people's interests.

The gravity and essence of administration in accordance with the law

is the supervision over officials and power in conformity with the legal provisions. Therefore, the key task in promoting administration in accordance with the law is to strengthen supervision over the exercise of power by government departments and personnel. Supervision over administration and law – enforcement is one basic function of the supervision departments, which is an important way to promote administration in accordance with the law of government departments and personnel. Administrative supervision has three distinct characteristics. First, in its way of supervision. Supervision over administration and law – enforcement is direct, active and daily supervision within the government departments. Second, in its content of supervision. Supervision over administration and law – enforcement supervise over the implementation of state laws, policies and regulations, but also supervise the enforcement of regional administrative policies, regulations, and binding decisions and orders of the administrative departments, as well as supervise over the observance of disciplines and performance of legal obligations. Third, in its result of supervision. Administration and law – enforcement supervision not only correct unauthorized and illegal administrative behaviors, but also investigate and affix responsibility for the concerned government departments and personnel, and will deal with them in merits of case. Therefore, administration and law – enforcement supervision offers a broad and concrete supervision over administration in accordance with the law, broad in scope, concrete in content and obvious in effects. In recent years, supervision departments in the province have carried out administration and law – enforcement supervision in various contents and forms over the problems in the administration according to law by the government departments and personnel, focusing on the implementation of laws, policies and regulations by the state and the province. According to statistics, the supervision departments in the province carried out over 3,400 law – enforcement supervision, and

offered 4,800 pieces of advice on improving government administration, particularly on administration in accordance with the law, helped concerned government departments improve 2,100 administrative policies, rules and regulations and disciplined 1,400 violators of laws and disciplines under administrative discipline supervision. Law-enforcement supervision plays an important role in correcting illegal administration, ensuring the flow of administrative orders, upholding the administrative laws and regulations, and promoting administration in accordance with the law.

2. Administrative supervision is an important guarantee of establishing an honest and clean administration

To establish an honest and clean administration is the basic aim in improving government administration. It should be pointed out that most government personnel have good self-control and strong sense of discipline, as well as an honest and clean conduct. Yet, there are a bundle of government personnel that cannot stand the test of reform and opening up policy and the market economy, and abuse their positions and administrative powers to seek a luxurious life in various means such as eating, soliciting and taking bribes, and to pursue private gains. Taking all those into consideration, it is repeatedly stressed by the party central committee and the state council that the construction of an honest and clean government shall be constantly strengthened to keep the government honest and clean.

To keep the government honest and clean, education is the foundation, supervision is the key, and the law is the guarantee. Honest administration is a comprehensive function of the supervision departments in China. Concerning its content, it covers the main aspects and basic requirements of the honest government construction. Concerning its implementation, it can be realized only through various supervisory powers and means. Therefore, honest administration supervision plays an important

functional role in promoting an honest and clean administration among the government departments and personnel. It has the following three functions. First, the education function. Whether a government is honest and clean or not depends to a great extent on whether the government personnel are honest and clean or not. Also, whether government personnel can be honest and clean with self-discipline is basically determined by their sense of honest government. It is an important means and daily work of honest administration supervision to carry out honest administration education among government personnel. In the past years, the supervision departments in the province have constantly carried out among the government personnel various kinds of education such as ideal and belief, political ideology, discipline and working style, honest and diligent government education, as well as warning by negative examples to help the government personnel adopt a correct attitude towards power, position and interests, thus making most government personnel consciously pursue an honest and clean administration. Second, the supervision and restraint function. Since the reform and opening up, China has issued a series of laws and regulations concerning an honest and clean administration for the government departments and personnel, which provide basic principles for them to act honestly and cleanly. However, if there is no supervision over the implementation of those laws and regulations by the supervision department, which is the main body for implementing laws and regulations on an honest and clean administration, those laws and regulations might be shelved and have no desirable function. As the saying has it, law alone cannot implement itself. In recent years, the supervision departments in the province have strengthened supervision on the implementation of laws and regulations on honest government, and have discovered, corrected and investigated and dealt with violators of the honest government laws and regulations, and ensured the strict observance of those laws and

regulations, thus making the majority of government departments and personnel consciously select and control their conduct according to the laws and regulations. Third, the regulating and binding function. The general architect of China's reform and opening up Deng Xiaoping once said that in establishing an honest government we had better depend on the law because it is more reliable. China has issued many laws and regulations on honest government. Yet, with the social situation changing, those laws and regulations become incomplete and imperfect. For that reason, it is inevitable that some misbehavior will occur among the government departments and personnel for the lack of law to abide by. For the past years, the supervision departments in the province have made, modified, added and perfected in time the honest government laws and regulations and made up for the imperfect provisions in the honest government laws and regulations based on the typical problems revealed by the administrative supervision and those having strong responses from the people and government departments and personnel, thus timely regulating and binding the administrative conduct of the government departments and personnel.

3. Administrative supervision is an important means to boost administration efficiency

To boost administration efficiency is the ultimate goal in improving government administration. Since the start of reform and opening up, China has consequently carried out four administrative reforms focusing on institutional reform, targeting at the overstaffed, overlapping and low - efficiency government departments, and has positively promoted the economic and social development.

The government departments and personnel are the main body of boosting the government administration efficiency whose behavior will directly influence the efficiency of the government administration. Efficiency

supervision is an important function of the supervision departments in the country, the main task of which is to supervise over and check the administration efficiency of the government departments and personnel according to law, and to correct and deal with malfeasance and dereliction of duty that affect the efficiency of government administration. Therefore, it is of great importance to boost the government administration efficiency. First, by means of efficiency supervision, and the exercise of inspection rights according to law, it ensures the timely and efficient implementation of major state policies, laws and regulations, and helps increase the legitimacy, timeliness, accuracy and rationality of the government administration. Second, by means of efficiency supervision and the exercise of punishment rights, it investigates and deals seriously with cases where orders are not obeyed, prohibitions are ignored and bureaucracy, malfeasance and dereliction of duty exists, and helps strengthen the sense of responsibility and efficiency among government personnel. Third, by means of efficiency supervision, and the exercise of the right to advise, it sums up and propagates the highly efficient government administration service pattern, helping to increase the efficiency of government. In this aspect, the supervision departments in the province have actively carried out experiments with obvious good results. In early 2000, an experiment was carried out in Wuhu City to set up a one - stop administration service center, aiming at solving the problems of shifting responsibilities and passing the buck to each other and procrastination that exist in some government departments. This move has made things convenient for the people, boosted the administration efficiency, optimized the development environment, therefore won appraisal from all social circles. Timely reports suggesting that this pattern be propagated to the whole province were submitted. At present, a network of administrative service centers at the provincial, municipal and county level has been basically established, and the one -

stop high efficiency administration service pattern has been comprehensively propagated.

4. Administrative supervision is an important means to check administrative corruption

To check administrative corruption is an important goal in improving government administration. Since the implementation of reform and opening up policy, particularly since 1993, the Party and government have staged a nation-wide anti-corruption campaign with a uniform national plan, which maintains a stable, healthy and intensive development trend, and has achieved obvious good results in the first stage. Last year, in the Global Corruption Report issued by the Germany-based Transparency International, it is stated that the measures taken by the Chinese government have made the people confident in effective corruption control.

To investigate and deal with cases violating laws and regulations is the most important responsibility of the supervision departments in the country, as well as the most effective means to check administrative corruption. Its main functions are manifested in the following three aspects. First, the intimidation function. By means of investigating and dealing with the government departments and personnel violating laws and regulations, it shows the government's determination to punish corruption severely, and thus deals a strong blow to the rampancy of those corrupt elements. Second, the warning function. By means of analyzing major and typical cases, and holding corruption cases exhibitions, it can give the government personnel a good education on laws and regulations and keep them on high alert. Third, the prevention function. By means of analyzing the laws and causes of corruption, we can mend loopholes in aspects such as system, mechanism, institution and management, and check the high occurrence from the beginning. For the past years, the su-

supervision departments in the province have constantly considered the investigating and dealing with government personnel violating laws and regulations as the key step to check administrative corruption, and gradually increased and concentrated their efforts to investigate and deal with a series of major and serious cases. Between 1997 and 2001, the supervision departments in the province have investigated and dealt with 36,414 cases involving government personnel violating laws and regulations, and taken administrative disciplinary measures against 37,558 violators, including 632 cadres at the county or division level and 50 at the city or department level. A bundle of high officials including Xiao Zuoxing, ex - mayor of Fuyang City, Wu Yunrui, ex - director of Anhui Provincial Tourism Bureau, Fu Hongjie, ex - vice - mayor of Fuyang City and Hu Runxiang, ex - mayor of Mingguang City were given severe punishment. By investigating and dealing with major and serious cases, and doing a good job of case analysis and prevention, we can further check administrative corruption.

On the Role of Efficacy Building in Improving Public Administration

By Yuan Jingui *

Supervision department is an internal organ of the people's government exercising supervision power. The main responsibility of the supervision department is to ensure smooth implementation of government decree, safeguard administrative disciplines, keep government clean as well as to improve public administration and administrative efficacy. Administrative efficacy is the essence of public administration and is also the goal and principle of the undergoing reform on administration. Proceeding from the efficacy supervision and gradually developed into efficacy build-up, the supervision departments in the province have, under the leadership of the CPC Fujian Committee and the Provincial Government, made considerable progress in exploring the ways of improving and strengthening public administration.

1. The connotation and features of efficacy building

Under the leadership of the Communist Party, the socialist China has made marked achievement. It is especially so since the adoption of reform and opening up policy. There were signs of prosperity in the whole nation with rapid economic growth, stable political situation, orderly society and the people live in peace and plenty. The Chinese government has always attached great importance to the issue of efficacy in the process of con-

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structing modernization. Deng Xiaoping, the late Chinese leader stressed on various occasions that the Four Modernizations would be impossible without improving efficiency and that the issue of improving efficiency should be tackled. Jiang Zemin, President of China also noted that an administrative management system with high efficiency, harmonious operation and standard action shall be established in line with the principle of simplification, unification and effectiveness so as to serve people better. The reform on administration in recent years is advancing towards the goal of building a clean, hard - working, concrete and efficient government.

Administrative efficacy refers to a comprehensive manifestation of the functional extent of the governmental organs and staff in fulfilling the government tasks and administrative goals and the efficiency, benefits and results generated from their performance. In fact, it is a reflection of the overall situation and entire result of administration.

Under the unified leadership of the CPC Fujian Committee and the Provincial Government, the efficacy build - up in the province aims to clearly define the administrative functions of governmental organs at various levels by means of scientifically allocating administrative resources, optimizing administrative elements, upgrading government operation and improving work style. [With the improvement of efficiency, management performance and social benefits as its goal, the strengthening of thoughts, work style, mechanism, professional competence and honesty as its content, such efforts will help to build a clean, hard - working, concrete and efficient administrative organs.

Features of efficacy build - up are as followed:

a. *Systematization*. On the one hand, administrative efficacy is a comprehensive manifestation and overall demand to aspects of administrative performance, involving various elements, levels and links, therefore, efficacy build - up is a systematic engineering requiring the mobilization

of positive factors in various aspects and to be implemented in an organized manner. On the other hand, efficacy is a combination of efficiency, benefits and results, in this sense, attention shall not only be paid to work efficiency but economic benefits and social returns as well. These three factors shall be integrated and unified and served as a fundamental goal of the efficacy build - up.

b. Legality. Efficacy is rooted on the rule of law, or it can not subsist. Based on the legality, efficacy build - up calls on governments at various levels and their staff to conduct administration authorized by the Constitution and relevant laws and regulations and in strictly accordance with legal forms and procedures. In other words, laws must be obeyed and be enforced strictly, and offenders be punished.

c. Creativity. The nature of the build - up is the creation of new things. In line with the demand of the times and with reform and initiative as its driving force, efficacy build - up attempts to allocate management resources scientifically, optimize management factors and establish a safeguard system for efficacy by improving the existing management system, working mechanism and operation forms. In recent years, positive measures have been employed to carry forward a package of reforms on government organs, personnel system, financial system and administrative approval system. Efforts have also been made to improve administrative efficacy by blazing new trials in theories, systems and science and technology, therefore, a sound economic and social development and an improving living standard of people are brought about.

2. The preliminary practice of efficacy building and its role in improving public administration

Since 1994, according to the plan of Central Commission for Discipline Inspection and Ministry of Supervision, the province has implement-

ed supervision on administrative efficacy and strengthened the supervision and management on administration with a view to improving the work style of governments and enhancing administrative efficiency. A thought of efficacy build - up of government has gradually formed and based on experiences, in 2000, the CPC Fujian Committee and the Provincial Government have decided that efficacy build - up be extended to government organs above the township level and units with administrative functions. Practice in the past two years proved that efficacy build - up is conducive to exercise strict rule of the party and the government and vigorously improve public administration and administrative performance.

✓ a. *The strengthening of system build - up has improved the standard of public administration.* Efficacy build - up is based on the build - up of system. Proceeding from the basic function of government organs and their business, a series of rules and regulations have been established and perfected, which include the system of post responsibility, service commitment, handle in specific time, report and file of denied cases, first - questioned responsibility, performance assessment and investigation of negligence of duty. Therefore, governments' management activities, business scope and administrative goals have all been incorporated in a scientific management system. To be more specific, the system of post responsibility clearly defines the duty; the system of service commitment gains the confidence of the people, the system of handling in specific time enhances the efficiency, the system of report and file of denied cases prevents the abuse of denial power; the system of first - questioned responsibility reflects the civic virtues of government; the system of one - lump - sum - information makes the work procedures known to the public; the system of investigation of negligence of duty strictly enforces work discipline; the system of performance assessment mobilizes the initiative of staff. At the same time, supervision is carried out to check the enforce-

ment of systems and deal with sternly with those who fail to observe the systems, thus promote the implementation of the systems. On the basis of establishing and enforcing the above - mentioned systems, service items which closely link to the general public are mustered in the public administrative hall and citizen service center so as to enact one - stop approval and one package service and save the time and energy of the public. People thus can enjoy the convenient and efficient service to the full. Such practice demonstrated that strengthening the system build - up helps to strict the management of government, standardize staff performance, improve work approaches and administrative forms and enhance the quality of service and efficiency.

b. Reform on the administrative approval system has promoted the shift in government function. With the deepening of the transformation from a planned to a socialist market economy, transformation on the government functions has become the pre - condition of improving public administration and a striking problem to be tackled for accelerating development. In the process of efficacy build - up of governments, reforms on administrative approval system and clear up of local laws, regulations and standardizing documents have been given priority. In line with lawfulness, reasonableness and the requirements for establishing a socialist market economy, 50% of projects that should be approved at the provincial level have been reduced or decentralized so as to transform government functions. In accordance with the objective requirements for social politics, economic and cultural development, the approval power of government has been redefined and those beyond the capacity of public administration were peeled off. Administrative personnel were reduced in line with the government restructuring. These measures have helped to build a government that is conformed to the market economy and rules of the WTO by reducing approval items and facilitating procedures. According to the

demand of market economy, a competitive mechanism is established and perfected which covered bidding of business land use right, public bidding of construction projects, government purchasing and property right transaction access to the market. By doing so, financial capital and administrative cost are reduced and market's function in optimizing the allocation of resources is brought into play. The performance of public administration is thus enhanced and competition and management begin to generate efficiency.

c. Making administrative affairs known to the public helps to enhance the transparency of administration. Making administrative affairs public is an important measure to strengthen democratic supervision, promote administration according to laws and to enhance the quality of public administration. To make this job better, the Provincial Government of Fujian promulgated the Provisional Regulation of Fujian on Making Administration Public, which clearly states the subject, content and means of making administration public, its supervision and responsibility ascertaining. In terms of its content, focus is given to administrative affairs, social management affairs and administrative law enforcement of governments at various levels and related departments together with fashionable and knotty problems of common concern. Regarding the ways of making administration public, priority is given to meet the demand of the people and their supervision, the key chains and content of administration in particular. The procedure of making administration public is clearly stated and operation standardized. With the administrative affairs as the core, various sectors business is publicized. With these efforts, public administration becomes an "operation under the sun" with high transparency and effective supervision, the sense of responsibility of governments' staff is greatly enhanced and the people's sense of involvement and democratic supervision are mobilized, hence the advancement of administrative efficiency.

✓ *d. Bringing forth new supervision mechanism safeguard the efficient operation of government.* The administrative power is characterized by its authority and one-way operation. Therefore, it is very easy to develop bureaucratism, which would lead to inefficient administration or even corruption shall such kind of power is unchecked or under an incomplete restrictive mechanism. The strengthening of supervision is vital to the public administration. Since 2000, the province has established various government efficacy complain centers above the county levels. These centers, which is under the jurisdiction of competent supervision departments, will feedback and ensure that every case is handled under the principle of "every case is tackled and the result informed" and "responsibility in levels and put under centralized management by competent departments". Meanwhile, efficacy supervisors are employed to find out and solve problems by frequent public observations or private investigations. The Fujian Provisional Regulation of Government Staff Efficacy Exhortation is enacted to intensify effective management of personnel. All these measures help to correct the unhealthy atmosphere of dilatory in doing things, shifting in responsibility, being lax in discipline and undisciplined work style and give impetus to the government staff to be fair, honest and clean in performing their duties, hence the improvement of public administration.

✓ *e. The assessment of performance helps to realize the administrative goals.* Performance assessment is an important part of modern administrative management. In the public administration, the enthusiasm, initiative and creativeness of government staff and personnel can only be mobilized should a scientific and reasonable performance assessment mechanism, which would reward the excellent and punish the bad, reward the diligent and punish the lazy, promote the able and remove the mediocre, be established. To build such a mechanism, a standard of performance assessment is worked out according to the post responsibility of government

staff. Consisting of self – assessment, democratic appraisal, assessment by the organization, combination of work amount and quality, unification of static and dynamic state, such standard aims to assess scientifically the performance of government staff and provide objective basis for reward and punishment in accordance with the fulfillment of task, quality and efficiency of work, service measures and quality. In the past two years, the employment of performance assessment help to implement and perfect systems on efficacy build – up, correct the equal pay system which disregard the performance, improve the overall quality of public servants, detect timely and solve problems in the existing public administration, thus ensure the realization of administrative goals and build a fine image of government.

3. The development trend of efficacy building

Peace and development are the two main themes of the time. With the forming of a multi – polar world and economic globalization, the competition of overall national power become intense. It is an important and striking task to make every effort to improve administrative efficacy, boost the development of economy and society so as to enhance the overall national power.

Taking a look at the world, we may find that some developed countries, with a view to maintaining the government's political rule and speeding up economic development, have made positive reforms and explorations on improving government's administration. Measures of streamlining the government, reducing government functions, liberalizing the rules and restriction, enacting performance check and assessment, socializing public service in a bid to shake off the imbalance, runaway, bureaucracy, inefficiency and corruption in public administration. In the 21st century, it is the trend of the time to improve the government's sense

of responsibility, responding and efficacy.

China's reform and opening - up drive and the construction of modernization has ushered into a new phase with its access to the WTO. In response to the opportunities and challenges that brought about, the province has made greater effort in intensifying its efficacy build - up, bring the function of efficacy build - up in improving public administration into full play, furthering efforts on bring forth new systems and mechanism, deepening the restructuring of administration, promoting shift of government functions, enhancing the transparency, fairness and efficiency of administration, cutting down administrative cost and improving service quality in a bid to better serve the society and the general public.

Strengthen Supervision to Ensure the Reasonable and Secure Utilization of the National Debt Funds

By Zeng Yejiu *

The state government has allocated the total number of 18.4 billion yuan RMB bond funds and 399 investment projects to Jiangxi Province since it adopted the pro - active fiscal policy in 1998. Therefore, the provincial Party committee and the provincial government attach great importance to the supervision and inspection of the uses of the funds. The supervisory offices at different levels perform their duties actively by cooperating with relevant departments. With four year's effort by different organs, we have detected over 600 cases concerning illegal use of the national debt funds. And actually 306 cases have been put on file for investigation and prosecution, 586 persons punished with disciplinary measures, and 47 handed over to the judicial organ. The 123 million yuan RMB funds have been found to be illegally appropriated and be rectified, hence retrieving an economic loss of 14.5 million yuan RMB.

✓ I . Intensify the mechanism to reinforce the overall supervision

The investment projects involve a wide range of categories, such as agriculture, transportation, civil engineering, etc. As the investment sum

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is large, and projects are dispersed widely, this makes a higher demand not only for the relevant departments that administer such funds, but also for supervisory organs at all levels that supervise and inspect them.

1. To strengthen leading role to carry out a system of responsibility.

The provincial Party committee and government bring the supervision of bond funds into the annual anti - corruption planning of the whole province, making clear that one deputy Party secretary and one deputy provincial governor are in charge of the pertinent organs or departments respectively. Under the principle of "the man in charge is responsible", different kinds of responsibility system are implemented in our province, including that of "number one man" in charge of the key projects, honest notification of project management, honest contracts, and responsibility for the engineering quality in all one's life. Those who do not conform to such regulations will be given the corresponding punishments. These duty systems reinforce the relevant departments' responsibility and also promote the implementation of supervision and inspection.

2. Active coordination and close cooperation.

It's impossible for one single department to investigate and deal with such a large number of complicated cases. Therefore, it's necessary that the supervisory organs should keep in close touch with other departments to form one whole force. The leading group composed of the principal leaders of various sectors has exercised the important role in dealing with the serious and notorious cases. The provincial supervisory office have carried out its duties seriously and established the system of connection with judicial organs and administrative departments. In handling the cases, they can exchange the information concerned promptly. The latter sectors follow the suit. Also in our province a joint conference concerning supervision and inspection of bond funds has been formed. The joint con-

ference has been held seven times, circulating joint notices and submitting over 100 law cases it has investigated to the sectors concerned. All of these cases have already been dealt with promptly.

3. The carefully organized working – group form a joint effort.

The supervisory sectors of the counties or prefectures follow the suit to establish the similar systems so that the management of bonds is actually tightened. The supervisory offices at each level are under the united leadership and perform their own duties. The provincial supervisory sector shoulders the responsibility of organization and supervision of the bonds and in due time holds the regular meetings so that they can know what's going on. It is demanded that each law case should be submitted to higher level for record so that these cases can be handled under the supervision. This practice is useful for dealing with cases as well as conducting the lower level. In May of 2001, for example, the masses of Duchang county reported that the Dashu town had made a false report of the immigration population and thereby received much more funds for building houses. This problem was thought of highly by all levels of supervisory offices. Soon afterwards eight work teams were formed to investigate the resettlement of immigrants and other projects. Through half a year's investigation, it was ascertained that there indeed existed the unlawful practices in this town. Therefore, 17 cadres were punished seriously, including the vice county magistrate in charge of the immigrant resettlement and the town head, and two were handed over to the judicial organ.

II. To investigate and deal with illegal cases in time and effectively

The severe punishment of illegal practices in the use of bond funds is a strong measure to ensure the secure and reasonable use of it and also an important mark of work evaluation. The majority of cases occurring in this

respect are the serious ones, usually odious in nature, the illicit sum of money high.

1. To investigate and deal with the key cases to heighten effects of typical instances.

The typical cases, once dealt with, often have the deterring effect. We usually focus our attention on the following typical cases: (1) The cases concerning leaders or cadres which can make a great impact in society and deter others from violating the law. In June of 1999, the provincial supervisory office, along with planning, audit, finance and construction departments, sent five inspection groups to make a sudden inspection. As a result, they found that there existed the problems in Shangrao, Jiujiang, Yongxin, Duchang and Yugan counties (or areas), concerning illegally used funds of ¥ 35 million, and seven leaders in these areas and other 20 main suspects were punished severely. The result of dealing with these cases has made a positive response in the society. (2) We focus our attention on the cases occurring in the funds - intensified projects, especially in the key link of the funds fluid. The subsidized funds for resettlement in our province total 3532 million yuan RMB, accounting for one third of those of four provinces in the middle area of Yangtze River. There are four links while the funds reach the immigrants. The supervisory sectors thereby place the surveillance on these four links to ensure the money is handed over to recipients. (3) The emphasis is put on the concealed or colluded cases occurring in the sectors in charge of enforcement of the projects supported by the bond funds and the bribery cases arising from contractors. In January, 2000, the masses reported that Wanggunghun, director of the Road Construction Command Office of Yudu County received bribes. After forty days, it was ascertained that the total sum of bribery Wang received came up to more than ¥ 600,000 and there was fraudulent application and claims of ¥ 2.24 million in four towns, in-

cluding Luoao town. The aggregate sum of this case reached ¥3.011 million and thirty – six relevant persons were punished with disciplinary measures with 6 handed over to the judicial organ.

✓ 2. To broaden the sources of cases and expand the fruits.

The cases occurring in the field of bond funds are generally hidden and difficult to expose until the serious incidents happen. To enhance the effectiveness of handling a legal case, we have taken every means to seek for the clues of cases.

(1) We lay stress on finding clues in the exclusive inspection. Since the implementation of the national debt projects, the relevant provincial departments have organized more than 50 inspections of various kinds, from which over 200 cases concerning breach of discipline have been spotted.

(2) We also attach importance to the masses' reports. As the investment projects are bound together with interests of the masses, the reports are the major sources of acquiring the clues to cases. We encourage masses to do so and announce the call line.

(3) We pay attention to the press reports. In April of 2000, for instance, it was reported in the program Focus Today of CCTV that the rebuilt bank was again blocked up in the Wucheng town, Yongxiu County. After that we formed without delay a joint investigation team composed of eight departments such as Construction, Water conservancy, Audit, Immigration Office, etc. They went to Wucheng town, bringing the persons involved to punishment.

✓ III. To combine inspection with prevention to ensure the secure and reasonable use of the national debt funds

We endeavor to combine the investigation with prevention, make suggestions about how to supervise and promote the relevant sectors to es-

establish regulations and rules to attain the goal of treating a disease by looking into both its root and symptoms. We do this from the following three aspects.

✓ **1. To enhance the publicizing work to form an intense situation.**

To do the job well in this regard, we have expanded the educational role of giving publicity in many forms. The incomplete statistics show that in the whole province the training class has been conducted for 97 times and six study courses have been operated by the provincial sectors. In addition, the propaganda takes the form of wallpapers, knowledge competition to enhance the people's consciousness of supervising and administering the national debt funds. We often eliminate the hidden disaster by pointing to problems to the relevant people. Every year we may choose some typical cases and sum up some experiences and lessons and then circulate them around the whole province. So that all the people have formed the consensus that the "fund is a high - voltage line and forbidden to touch".

✓ **2. To shoot the arrow at the target and urge prompt rectification.**

During the course of supervision of the national debt funds, we urge the people concerned to rectify the problems once they are arising. In April of 1999, we organized the establishment three inspection teams and sent them to 22 counties for inspection. During the inspection, we found that there existed, to some extent, such problems as embezzlement, appropriation, delay etc, in eleven counties. Faced with these different degrees of problems. We gave each county a different notice of rectifying them in a limited time. Later, we severely punished five counties that hadn't done any rectification. Therefore, to punish one acts as a warning of others.

3. To set up regulations and systems to systemize and normalize the administration.

In dealing with cases, we focus our attention on weak points in administration of the administrative units inspected and offer in time inspect suggestions, helping them to formulate regulations and rules, and urging them to manage the funds pursuant according to the laws or regulations. For instance, in dealing with the embezzlement of the national debt funds by waterworks in six counties, we, apart from punishing the pertinent persons, promoted them to establish a set of feasible regulations on the basis of the general problems common to the six counties. Later, this set of regulations was introduced throughout the province. At the same time, we do away with the outdated regulations to keep up with the changing society so that we can better safeguard and manage the national debt funds. According to the initial statistics, we have made 216 items of supervisory suggestions and assisted to establish 71 articles of regulation since carrying out of supervision of the national debt funds in 1998.

Supervising Administrative Efficacy to Improve Efficiency of Administration and Management Level of Government Organizations

By Bai Jimin *

Administrative Efficacy Supervision (AES) means supervision and examination activities carried out by the supervision body according to the *Administrative Supervision Law of the People's Republic of China*, over government organizations and civil servants concerning the efficiency and quality while they perform lawful duties. Endowed by the law, it is an important function of the supervision body to perform AES, in order to guarantee administration pursuant to law strictly and promote administrative management and efficacy of the government organizations. Over the recent years, while performing supervision for a clean administration, we have made great efforts to study and practice AES, and taken a series of powerful measures to continually strengthen AES, achieving apparent results. The following are major practices of ours:

I . Reforming system of administrative examination and approval to improve transformation of functions of government organizations

China's administrative examination and approval system, formed un-

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der planned economy, has many disadvantages, such as too many approval items, complicated procedures, non - standard process and short of supervision and control, which not only hinders the development of social economy, but also interfere with the administrative efficiency, cleanness and honesty of the government. Therefore, in order to transform the government functions deeply, improve administrative efficiency and optimize development environment, it is necessary to reform system of administrative examination and approval. Led by the People's Government of Shandong Province, we actively started reform of the system of administrative examination and approval by organizing and coordinating with departments concerned. Over more than one year's effort, the first round reform of the system at provincial level ended last November. Through careful clearing, repeated demonstration and strict examination, approval items belonging to all departments of the Provincial Government were reduced from 1830 to 1050, only 780 reserved, with a reduction ratio at 57.4%. In association with the reform of organization structure, all governments at prefecture or municipality level started the reform of approval system early or late, reform programs published to the public by some of which showed that each had a approval items reduction ratio of above 50%. In order to standardize the administrative approval, the Provincial Government issued the *Regulation of Shandong Province on Administrative Examination and Approval*, demanding to establish an approval system with sound structure, scientific management, strict procedure and efficient restriction, to standardize basis, standard and procedure of the approval, to make government affairs public, to strengthen system for calling to account, and to set the administrative approval under legal system. The reform of approval system made approval items at each level reduced to a large degree, approval procedures simplified, approval activities standardized, and administrative efficiency increased. People at all circles gave a high comment to

this reform.

II . Making government affairs public to strengthen democratic management and supervision

It is necessary to make government affairs public all - around , and let the people know what they should know and need to know in various forms in time , participate in and discuss government and political affairs and exert their democratic and supervisory power . This could not only standardize administration of government organizations and civil servants , but also prevent civil servants from misusing their authorities , so the corruption could be prevented and addressed from the very beginning . In order to make the government affairs public , in 1999 we started an experiment in seven functional departments . In March 2000 the Provincial Government issued the *Opinion on Making Government Affairs Public Within Government Organizations of Shandong Province* , gradually popularizing the publicity of administration to the whole province . From township governments , the publicity of administrative affairs was extended to organizations at county , prefecture (municipal) and provincial level . Up till now , all government organizations at township (sub - district office) and county (city , district) level and 90% organizations at municipal and provincial level have made their administrative affairs public . While promoting publicity of administrative affairs , government organizations at every level paid much attention on establishing “administration hall” and offering “one - stop” services . The administrative authorities , basis , procedures , standards , time limits and results were made public , directly under supervision of the masses , increasing transparency and preventing from disadvantages of “operation in the dark” , strengthening supervision and control over government organizations and civil servants at all levels , efficiently promoting administration pursuant to law , increasing efficiency of

affairs handling and intimating relationship between the government and the masses.

III. Improving system construction to standardize administrative action of government organizations and civil servants

While restructuring economic system, it is a rather hard to formulate, amend and annul rules, regulations and laws. Therefore, the improvement of legal system is regarded as one of the most important tasks to standardize administrative management and action of the government organizations and perfect legal institutions for construction of a clean and honest administration. Over the past five years, according to the requirements for anti - corruption and concerning new situation and problems arising from the socialism market economy, the provincial and municipal supervision bodies have drafted and formulated nearly 700 directive documents, of which more than 220 were undersigned by Governments at various levels and more than 30 by the Provincial Supervision Department. These documents mainly covered the following: first, in order to treat social, economic and natural environment efficiently, promote economy development, and guarantee the sustainable development strategy, the Provincial Government has issued more than 10 directive official documents early or late such as *Provisional Regulations on Administrative Sanction for Violation of Statistic Regulations and Laws*, *Provisional Regulations of Shandong Province on Administrative Sanction for Violation of Construction Regulations and Laws*, and *Provisional Regulations on Violation of Environmental Protection Regulations and Laws*; secondly, concerning anti - bureaucracy, transformation of organizations' style of work, improvement of administrative management efficacy, the Provincial Government has issued five rules including *Opinions on Dealing With the Ten Issues Relating to*

Officials' Style of Work and Opinions on which Leaders Should Lead in Setting Themselves An Example to Others During Construction of A Clean and Honest Working Style of the Party; thirdly, aimed at anti - waste and uncleanness, the Provincial Government has issued a series of documents such as *Regulations on Keeping Upright and Clean in Party and Government Organizations*, *Opinions on Strictly Prohibiting Recreational Activities Using Public Funds*, etc., effectively improving uprightness and cleanness of the government organizations and civil servants; fourthly, centering enhancement of supervision over leading officials, establishment and perfection of system of responsibility to ensure administration pursuant to law, the Provincial Government has issued a series of documents successively, including *Opinions on Implementation of Provision on Leaders' Report of Important Personal Affairs*, *Regulations on Audit of Leaders Before Holding a Post*, *Procedures for Assessment on Implementation of Responsibility System for Construction of Clean and Honest Administration and Party Working Style by Leading Groups and Leaders at Prefecture (Department) Level and Calling to Account*, *Procedures of Shandong Province for Investigating and Affixing Responsibility for Unjust and Wrong Cases*, etc. The formulation and perfection of these rules and regulations have effectively advanced the progress of institutionalizing legally the construction of a clean and honest administration and administrative management.

IV. Carrying out special inspection and focusing on treatment of prominent problems concerning administration against law and administrative efficacy

Special inspection means that selecting items around central tasks of the government and aiming at intensely reported affairs by the people, as well as key fields that tend to give rise to corruption, and then performing inspections in order to investigate and prosecute activities against principle

or law, improve administration pursuant to law and guarantee that government orders could be implemented smoothly. According to statistics, during the recent years, the supervision bodies at all levels of Shandong Province have carried out 1414 special inspections, finding out and dealing with a great many cases against policies, regulations and laws. In detail, we have investigated and prosecuted 2515 cases against regulations or laws, 1264 persons getting administrative and disciplinary sanctions, put forward more than 43000 suggestions for improvement of work and helped to formulate over 25000 rules and regulations. An economic loss of 2.5 billion yuan has been retrieved or avoided for the country. The inspection mainly covers the following items. Firstly, aim at implementation of major reform resolutions of the country. For example, in association with departments concerned, we have carried out a supervision of implementation of reform on circulation system of grain, mainly focusing on carrying out leader's responsibility system and the three policies of "open to purchase, selling according to prices, and using purchasing funds closely." We have dealt with a group of cases against disciplines or laws during the inspection, which has promoted the implementation of reform policies concerning grain. The supervision bodies at all levels have also carried out inspection and supervision over various fields such as housing reform, management of housing funds, reorganization of state - owned enterprises, etc. according to different local situations. Secondly, perform inspection on prominent problems that will hinder economic development. Since 2000, cooperating with planning and financial departments, the supervision bodies have carried out inspection and supervision over the use and management of national debts and quality of construction projects, mainly focusing on investment management, appropriation and use of the national debts by project authorities, performance of construction units for compliance with project management system, resolutely investigated and

rectified activities in relation to retention, misuse and occupation of national debts. Within the Province, 158 projects using national debts have been inspected, in relation to which funds of 0.196 billion yuan has been found against principles or laws. The problems have been corrected carefully, which improved the reasonable and efficient use of the national debts fund. Thirdly, carry out the inspection aimed at hot issues that will affect social stability. In order to establish and perfect social security systems, for successive two years from 2000, in cooperation with the departments concerned, the supervision bodies has performed a special inspection on management and use of basic living funds for laid-off workers, unemployment insurance funds, basic retirement insurance funds and subsistence allowances for urban residents. Activities against disciplines and laws of the country such as misuse and occupation of funds have been investigated and treated seriously. In detail, supervision bodies at all levels of Shandong Province have treated funds against disciplines and laws reaching 0.622 billion yuan, and placed 23 cases concerning embezzling and misusing social security funds. Fourthly, in cooperation with construction administrative bodies and so on, we have performed supervision and inspection on construction projects on the purpose of rectifying and standardizing construction market order, and punishing corruption. For successive five years, by carrying out inspection on newly opened construction projects above 0.5 million yuan, we have investigated and corrected 14983 cases against disciplines and rules such as no registration for construction project, no bid, multi-level contracting and illegal sub-contracting, etc., 621 cases against disciplines and laws such as extorting and taking bribes, and obtaining profit for oneself by taking advantage of being responsible for project management and contracting, and transferred 216 persons to juridical authorities. We have also carried out special inspection of capital out of budget on implementation of "separating

revenue from expenditures" in cooperation with departments concerned. To prevent funds beyond budget from abnormal circulation and block financial resources of corruption, we have taken measures such as clearing up administrative charges and penalties, bank accounts, investigating and punishing actions against disciplines and regulations, opening special account for funds beyond department's budget, etc.

✓ V . Establishing complaint mechanism to solve intensely reported problems by the public concerning administrative efficacy

We have established a complaint mechanism within the whole province, in order to make the administrative organizations transform their work styles, improve administrative efficiency and advanced administration pursuant to law. Seventeen municipalities at or above prefecture level have opened complaint centers for reporting administrative organizations' efficiency of affair handling, centers for administrative efficacy, and complaint phones to answer and deal with complaints of the masses about service attitude and working efficiency, etc. of the administrative organizations and civil servants. Only for one month after setting up the complaint live for administrative efficacy, the provincial supervision department had received 55 pieces of complaint about administrative organizations, 22 of which were settled down. One person was criticized with circulation of a notice. Two persons were removed from the post or transferred to other post. Eight cases were required to be rectified within a limit. Zaozhuang City has established complaint centers for administrative efficacy in nearly all functional departments, functioning to answer and supervise effectively the masses' complaint about administrative omission, wrongly administrative performance, etc., and seriously investigate and punish persons who bring about bad results with violation of regulations and performing duties

half hearted. For a half year after opening complain centers, we have received 890 pieces of complaint of the masses about administrative efficacy, warned seven units and 15 person against their administrative efficacy, exposed three units to the public, and circulate notices to criticize 13 units and 15 persons, which produced so many warm responses in the society. The former "four difficulties" (difficult to enter door, to see the face, to talk with and to handle affairs) have been decreased with an apparent degree. The masses could feel warm, and the change in service attitude and efficiency to handle affairs than before when they enter government units at this moment.

VI. Seriously affixing the responsibility to strengthen restriction of administrative power

We have mainly paid our attention to two aspects. The first is to popularize responsibility system for construction of a clean and honorable administration. At present, the responsibility system has been established in nearly all organizations at each level. We have focused on affixing responsibilities for issues such as huge economic loss and serious cases resulted from not enough fulfillment of responsibility for construction of clean administration, serious unhealthy tendency, those intensely reported by the people and could not be dealt with for a long period, spouses or children of leaders gaining personal gains illegally by taking advantage of post and authority of the leader and resulting bad influences, and at the same time on supervision and check over implementation of responsibility system for construction of clean administration. During 2001, 486 leading officials in Shandong Province had been affixed responsibility, of which 405 got disciplinary sanction, 81 were treated with the Party discipline. The second is to affix responsibility for grave liability accidents. The supervision bodies at each level actively participate in investigation and

treatment of serious liability accidents, treat actions that bring great loss to the property and lives of the people and the county owing to bureaucracy, breach and malpractice of duty, and affix responsibility to persons concerned of the accidental area and department resolutely. Since 1998, the supervision bodies of Shandong Province have attended the investigation of 63 serious accidents, because of which 211 persons got disciplinary sanction and 42 were prosecuted for their criminal responsibility under the judicial authority.

One of the long - term tasks for the government is to improve administrative management and efficacy; therefore, AES will be a long - term task also. AES in Shandong Province has been gradually deepened and developed with a very good tendency. However, there are still some gaps from the requirement of the time and expectation of the people. We would sum up experiences seriously, to meet the challenge of China's entry into the WTO. We would probe into new ways of doing things under the socialist market economy, reform and innovate, grow with each passing day, do more and more works, in order to achieve more in AES and make AES play an important role in building a clean and diligent, pragmatic and efficient government.

Strengthen the Administrative Supervision and Raise the Public Financial Efficiency

By Zhu Yexiang^{*}

Along with the establishment of socialist market economic system in our country, financial operation is becoming more and more important in adjusting economic operation, optimizing allocation of resources and spurring social economic development. Market seeks profit. It only pays attention to and adjusts the social realm with a high profit return and does not adjust the realm of public demand with a poor or without profit return. For this reason, in the circumstances of the market economy, the financial function is to fill the vacuum of market adjustment with its best, supervises the place where there is little market patronage, so as to realize the balance of social administration and development. With public demand as its own purpose, the function of the finance makes a clear distinction with that of the profit oriented market, and that's the reason why it is called a public finance. The efficiency of public finance lies in the degree of extension by the public fund to the market vacancy. If a relatively small financial expenditure fills a relatively larger market vacancy, it is a high efficient public finance, otherwise, it's a low efficient public finance. In order to raise the efficiency of public finance, structure and system mechanism must be optimized and perfected, so as to secure the normal operation of the mechanism, and this is the important obligation of the administrative

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supervision .

I .The important function of administration supervision in financial operation

Administrative supervision has an irreplaceable function in financial operation in the following aspects :

(1) The effective interposition of the administration supervision will solve the problems better in balancing budgetary revenues and expenditures . Along with the perfection of the market economic system , the mode of economic growth has changed greatly . The structural contradictions accumulated in the period of planned economy have been exposed gradually . Some in-depth contradictions in the economic and social life focus on the finance , such as , for the government , there appeared payment crises in various degrees , with great pressure to repay debts , especially in some places , in the interference of the government , finance has to pay debt of the institutions , turning the banking risk into a finance risk ; for the expenditure management system , there existed corruptive practices , such as the malpractice of one-pen approval budget , budgetary expenditure at random and lack of planning , a serious waste of fund and a low efficiency of financial fund . These problems were caused by the imperfect structure and system , but also by the malpractice of the uncontrolled administrative powers . The strengthening of the administrative supervision will supervise and restrain the administrative powers , but also give impetus to the financial structure reforms and renovations , so as to completely solve the problems of fiscal balance . For instance , in resent year , aimed at some authorities in our province forcing the finance to guarantee loans for enterprises and financial institutions , for loans transfer repayment , the supervision department has strengthened the investigation and taken disciplinary measures against some malfeasants who violated law and discipline , so as to decrease the fi-

nance and debt risk to a certain extent. Furthermore, in recent years, the supervision department in our province has actively interposed in the fiscal expenditure reforms, and provided a strong disciplinary security to an open and a fair operation of the finance. For example, in order to secure the implementation of the government purchasing system, the provincial Department of Supervision, together with the Departments of Auditing and Finance have formulated relevant regulations, which secured the government procurement rules of "separation of administration and handling" to be realized.

(2) Administration supervision will solve the problems of inaccurate accounting statements and the economic chaos. Accounting statement is the foundation of the national economic management and policy making. But in a long period of time, the inaccurate accounting statements have caused a lot of problems, such as unlawful practice or breaching of disciplines time and again, retention of state revenues, reaping the benefit and diverting budgets spreading quickly, government macro policy decision and investors' chooses have been disturbed and misled by false accounting statements. The direct causes of the problems may be summed up as accountants' system of ownership and the imperfection of budgetary fund expenditure management system. The problem of inaccurate accounting statements can never be completely solved if there are no essential reforms of accountants' management and expenditure management systems. And either reforming the existing accounting management system or initiating an expenditure management system will certainly touch various units' benefit, and it will meet resistances. In order to eliminate interference, the administrative supervision needs to interfere, and make the separation of the units' authority from the accounting activities, and secure the smooth implementation of reforms of accountants' dispatch and the government purchasing system.

(3) Administrative supervision will spur the optimization and perfection of budgetary structure and system. The existing budgetary management mode was formed and fitted with the planned economy, and it has a great gap from the development of socialist market economy and the objective requirement in the establishment of the public finance framework. Firstly, the budget drafting is too extensive. Budget drafting and budget implementation “separating with each other”, and “basic budget plus increment” method cause different departments’ unbalance of prosperity and adversity, and decrease the efficiency of government finance distribution. Secondly, budgetary funds are scattered or even precipitated in different departments, and it is inconvenient for the government’s dispatching and management. The unnecessary and over-laborite formalities of fund appropriation makes a serious leakage here and there. Thirdly, the universal phenomenon of “black-box operation” in local government procurement makes the co-existence of fund lacking as well as fund wasting. Fourthly, the expenditure range is too wide to cover the market function, so the major supportive expenditure cannot fully secure agriculture, education, science and technology and the social security where there is little market patronage. Fifthly, the budgetary fund management is extensive, and the internal supervision system is “lacking”. The security of budgetary fund is devoid of effective system warranty, and there is a hidden risk of budgetary fund. And sixthly, the financial internal management is loosening, without strict restraint and supervision, the serious problems of “the black under lamp” cause corruption cases occurring currently.

The financial management structure and operation mechanism needs to be reformed, but the reform is far from enough if it is a self “revolution” of the financial department. Solving the problem of financial management structure calls for a strong external forces, of which the administrative supervision is needed, supervise the financial department’s budgetary opera-

tions in accordance with the requirements of the market economy for one side, and for the other side, urging the other government departments to reform concurrently, such as the dispatched accountants can not be rejected, centralized purchasing can not be replaced by self-purchasing, public financial income can not open banking account and funds can not be concealed. Through the "double" supervisions, the finance structure reforms of the government can be implemented.

II . The effective way of strengthening the administrative supervision and raising the financial efficiency

The administration supervision will spur the financial efficiency in the following aspects:

(1) Supervise the budgetary management policy and stop up all the loopholes in the financial management system. The administrative supervision will seek questions and loopholes from the analyses of construction of a clean and honest administration and anti corruption, feedback to the government, propose suggestions and make series financial policies and measures published by the financial department of the government, and fully reflect the requirements of a clean and honest administration a fair play. In recent years, in the administrative supervision practice of Henan Province, we've found some corruptions, which were closely related with our administrative management, especially with the financial management system. The supervision department keeps a firm grasp on dealing with the corruption on one side, on the other side, analyzes the in-depth causes of structure and system, and at the same time, ascertains responsibilities, and makes the financial departments perfect themselves according to their structural loopholes. For instance, in the investigation of the forfeit enforcement officials' embezzling and misappropriate of public funds, we found the most important cause is the confusion management in the sum of

confiscated money. So, together with the financial department, we have proposed the management structural reforms of receipts not covered in the state budget, and exercise "separation of income with expenditures" in some places, and it has been recognized by the governments of different levels. In recent years, the provincial supervision department, together with financial department, have made a series important policies including budgetary structure reforms, accounting management structure reforms and government purchasing structure reforms, and embodied the requirement of construction of a clean and honest administration and anti corruption in the financial management policy making and the implementation and realized the coordination of financial management with the administrative supervision.

(2) (Supervise the implementation of the financial management system, and give the public financial system a full play). How to carry out the various financial structure reforms is an important topic for the administrative supervision. Every concrete financial management system embodies each financial department and the relevant expenditure departments' and units' behavior, so the implementation of the system actually reflects the situations of execution of the administration disciplines. From this point of view, the implementation of the financial system is not only the business scope of financial department, but also an important part of the work of administrative supervision. Based on this recognition, in recent years, the administrative supervision departments of different levels have taken the implementation of management reforms as an important embodiment of maintaining the government decisions and policies unimpeded, with a careful arrangement and an overall supervision. For example, in order to solve the problem of inaccurate accounting statements, some local financial departments have implemented the detachment of accountants to administration departments and institutions, and the implementation of detachment

affect some units' interest, and the leaders of those units have taken perfunctory attitudes. Aimed at the existing circumstances, the administrative supervision departments interfere timely and point out that the rejection of the detachment violates the administration disciplines. Those with perfunctory attitude units should cooperate with the financial departments, otherwise, they will be considered as breaching the discipline, and in this way, the accountant detachment system has been carried out smoothly. At present, all the experimental units' work goes on smoothly. Furthermore, the administrative supervision departments in our province have implemented an overall and multi-layers liquidation accounts of the administrative departments and institutions and the "separation of income with expenditure", accelerate the perfection and initiation of the financial structure.

(3) Implement supervision over financial department and its officials and secure a regular and fair financial operation. The implementation of the new financial system solved some problems of efficiency and fair play, but some new problems appear at the same time, and some negative and corruptions may appear in a different shape. Affected by the individual interests, some accountants avail themselves of loopholes of imperfect system so as to realize the aims of profits for themselves or their small groups. So, it is necessary for administration supervision departments to inspect the financial enforcement, put up suggestions, check malpractices and make the financial department a regular and a fair operation. For instance, aimed at the corrupt practice of decentralized purchasing, we put forward a suggestion of the government centralized purchasing and it was adopted and implemented immediately. But in the process of purchasing, some financial officials directly control the purchasing, seeking profits for themselves or their small groups. In order to strengthen the management, combined with the gist of relevant departments of the state, we have jointly drafted regula-

tions on the supervisions over the government purchasing with the Department of Finance and the Department of Auditing, pointed out clearly, that the principle of "separation of administration and handling" must be firmly carried out, and the administration organs and handling organs must be set up separately. At present, the phenomenon of administration organ mixed up with the handling organ has attracted the attention of the provincial government, and it will be solved soon. In recent years, we have rectified the corruptive activities of opening accounts violating the regulations, malpractices of financial guarantee for enterprises and individuals and the black-box operations, and ensured financial activities openly, fairly, cleanly and honestly.

Crack Down on Corruption at the Source and Promote Building of Honest and Clean Governments

By Wang Zongru *

Cracking down corruption at the source is the demand of Chinese Communist Party and the government. It is also the basic principle government department should abide by when building clean government and serve the people. To reach that goal, the party and government have been clinging to the construction of clean and honest government and achieved obvious accomplishments. To fit in with the updated situation that the anti-corruption fight is being stricken into and the socialist market economy system is continuously improving, the central government proposed that policy of building a clean government and fighting against corruption comprehensively. The supervision departments at different levels in Hubei Province have taken important measures to fight against corruption at the source.

In the work, we have been sticking to 4 combinations:

Firstly combining the efforts of provincial government and its relevant departments. The provincial government shoulders the main responsibility while supervision departments carry out the specific work. Government being the main sponsor helps to guarantee that the whole province works together to fight against corruption at the source substantially. The governor looks into this job, and executive deputy governor takes care in details.

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Specific working groups are established to make general guideline, specific instruction and direct practice. In the recent years several governor working meetings have been held to discuss this problem of anti - corruption at the source. Important activities are organized and important tasks are assigned by government. For instance, government takes the position of leader in reform of administrative approval system, leading and correspond with relevant departments to carry out the reform. Government has made several important measures about the fight, such as revenue and expenditure from 2 separated channels; government purchasing and regulation on materiality construction market establishment.

Government being the main sponsor ensures that various departments shoulder responsibility of each own. Hubei Province specifies the responsibility of each relevant department which involves in anti - corruption fight. For example, treasury departments is responsible for the implementation of the policies of seperating revenue from expenditure, accountants designation; quota department is responsible for administrative approval system; construction department is responsible for the establishment of materiality construction market; auditing department for the audition of leaders economic responsibility; personnel department for the reform of personnel system. Departments at each level should do their own job so as to push forward the work of the whole branch. Anti - corruption from the source is also listed as an important criterion when evaluating a departments work.

Provincial government is the general director of anti - corruption fight, while each department does its own job, cooperating with prosecution bureaus. Supervision departments of different levels are focused on formulation of plans and outlines, to provide proof for governments decision making; on publicity and education to create theoretical atmosphere for anti - corruption from the source; on study and investigation to set up as a

pacemaker in this aspect; on evaluation and examination to ensure every assignment has been completed and each department shoulders its own responsibility. In the past 2 years, 380 cases with violation to the policy of revenue and expenditure from 2 separated channels have been found out and prosecuted, 86 party members and carders with activities against discipline have been published, 47 outstanding models have been set and those departments who did not do that well were circulated a notice of criticism.

Secondly, sticking to bundling together thorough push – forward on the whole and by relaying on implementing each task one by one and stressing the main point. Bundle policy and push forward on the whole help to carry out this job in a wide range; stressing main point and complete each job one by one will lead this job into depth and achieve substantial fulfillment. In terms of content, Hubei Province bundles each anti-corruption projects together to deploy; in terms of staff, people from different departments are bundled together to mobilize; in terms of working target, efforts are jointed in a focus to make breakthrough at one time. A working emphasis has been set for each period. In 1997, the emphasis was to reform financial system, extending the practice of accountant designation, establishment of accounting center, etc; in 2000, the key popularization project were public bidding for architecture market and 3 publicity of government affairs, enterprise affairs and county affairs; in 2001 task were centralized on the reform of administrative approval system and auditing of leaders economic responsibility. The first round of reform of administrative approval system has been completed and 43% of those issues used to need to be approved have be cut off. Auditing of economic responsibility of carders of director – level and 17 mayors/county leaders has come to an end and this job will be carried out in the whole province. Practice testify that we should center on the focal point and implement all the items one

by one to in order to promote the job overall.

Thirdly, sticking to the combination of leading body with grass - roots organization. The combination of leading body with grass - roots organizations has characterized the administration work with extensiveness, so that we can press on with the in - depth reform and form reflection in large - scale. In recent years, Hubei province has shifted its attention from individual to the whole situation. In 1999, both Yicheng and Jingmen city were appointed as the pilot areas by Hubei Provincial Prosecution Bureau. The provincial bureau invited the experts and senior leaders of the prosecution field investigated Yicheng city and proved the feasibility of the overall promotion of accountant assigned, the unity of financial arrangements and village accounts examinations. If the pilot work successes, the provincial unit will promote it with major efforts. The popularization will be adapted to the different situation instead of using the compulsory means. For example, the account assignment was not promoted in the whole province until the pilot work conducting in the 1900 units in forty counties. Financial accounting centers have been established in the four prefectures and Provincial Water Resources Bureau. And the system will be popularized in the whole province. the headstream governing work has been enhanced through the focal work in the grass - root organizations.

Focus on the leading units will push the reform in the grass - root organization to depth development. For the administrative approval and carder personnel system reform, the province will push down from the provincial units to the grass - root organizations. In 2001, 48 provincial bureaus made the goal of the headstream governing work public in Hubei Daily and made promises of acceptance the supervision from the all circles. For the pilot work of leading carders economic responsibilities auditing, the provincial delegation, led by Yang Yongliang, vice secretary of provincial committee, Mr. Huang Yuanzhi, vice secretary of provincial

committee, implemented the auditing work of mayor of Huangshi City, the director of Hubei Ethnic Affairs and directors of 17 counties. In 2001, 97 county level carders and 905 village level carders in 98 city in 98 cities were received auditing. 1400 million yuan illegal capital has been investigated and prosecuted.

Fourthly, stick to the combination recreation with ideological education. To guard against and bring the corruption under control is through depth reform and eradicating the soil for the corruption. Hubei province attaches importance to the recreation on regulations relating to power, money and personnel. Put more efforts into the reform of administrative approval, financial and personnel. The administrative approval reform as the focus of 2001 work, 890 items of administrative approval have been cancelled, 2481 items have been abolished from the 8271 administrative approval items checked up by 67 cities (prefectures, districts). The ratio of reduction is about 48% in Wuhan city. On Oct. 24th, 2001, on the television forum on the state council administrative approval system reform, Hubei has introduced the experience in this area. While consolidating the achievements in 2000, Hubei started the pilot work of department budget and centralized payment by national treasury. Some cities has set up the finance and accounting center, which will exercise the centralized management over financial affairs of every unit so that it will strengthen the financial supervision and improve the fund utilization benefit. In the area of cadre personnel reform, we focus on the supervision before the term of office. Meanwhile, daily supervision and centralized supervision, regularly talk, individual report on significant event, income declaration, an honest and clean government archives has shaped the framework of carder supervision system.

The essence of system reform is the adjustment of benefit pattern. In order to give full play to ideological work, strengthen the education to the

party members and carders about exercising the state power for the people, will serve in the achievement of reform target. Hubei provincial supervision departments held the exhibition on honest and clear government building fruits and organized over 160 thousand carders, especially leaders at all level, to attend the exhibition. We conduct propaganda the representative in the new education column in Hubei Daily, the television short film on special subject and construct the public opinion for reform. To tackle the difficulties in the reconstruction, leaders at all level organize the carders of department in charge, personally conduct the ideological work to guarantee the administration task implemented in time.

Carrying Out Efficiency Supervision to Promote System Innovation

By Zhang Jialiang*

Efficiency supervision, an important aspect of administrative supervision, is to ensure a conscientious government, which is equal in status and role to incorruption supervision that aims to guarantee a clean government. Supervisory organs, therefore, must work to promote both a clean and conscientious government, and play their duty-bound role in ensuring the incorruption and efficiency of government organs.

One of the important tasks in China's reform, opening up and modernization is the innovation of the administrative system. Without the synchronous advance of this kind of reform, it would be impossible to reform the economic system alone. Accession to WTO, which marks a new phase in our reform and opening up, poses a host of challenges to the systems, mechanisms and regulations by which the government manages economic affairs, and makes it an urgent task to step up the reform of the administrative system, for it has a bearing on whether China can speedily adapt itself to the new situation after its accession to WTO. Supervisory organs must both take vigorous measures to reform themselves in accordance with the Party Central Committee's requirements and earnestly perform their supervisory functions on an overall basis with a view to pushing forward the innovation of the administrative system.

It is of great significance to strengthen the supervision and inspection

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of system innovation, an important link ensuring the success of various reforms. Since it began to reform and opened to the outside world, China has witnessed profound changes and made unprecedented achievements in the economic, political and cultural fields, providing ample evidence for the correctness of the Party Central Committee's decision on, and plan of, the country's reform and opening up. But in the course of this drive have arisen certain problems, chiefly the difficulty in driving home the reform in certain concrete respects owing to errors that arise in some regions' or departments' implementation of the Party Central Committee's decision and plan, and especially to the practices of certain conservatives and vested interests who outwardly obey but inwardly oppose the policies and measures of reform and opening up. This shows that it is very important for reform and innovation to maintain the identity of government decrees and ensure the correct implementation of the Party Central Committee's political line and policies and the state's law and regulations. Especially when the country is at a critical stage in its reform and opening up and system innovation, it is all the more important to enhance efficiency supervision so as to maintain the unity of government decrees and guarantee that the Party Central Committee's policies will be correctly carried out. As a deep - level problem in our reform, the reform of the administrative system should be the focus of our efficiency supervision, whereby to ensure that the Party Central Committee's policies concerning this reform will be fully implemented and to provide a basis and prerequisite for the fundamental enhancement of administrative efficiency. To be specific, efforts should be made towards the following goals at present.

1 . Promoting functional change

Change of government functions is of great practical significance. On the one hand, the development of a socialist market economy requires that

resources be allocated by market means, and economic growth be regulated by market mechanisms; otherwise, the fruits of the reform of the economic system would go up in smoke and the development of productive forces would follow the same old disastrous road. On the other hand, the irresistible trend of economic globalization in the present world dictates that our government's functions of managing social and economic affairs and the ways of performing those functions conform to international conventional practices and be adapted to the requirements of the advance of economic globalization. Both facts mean that governments at various levels must persist in the series of reform measures which the Party Central Committee takes to transform government functions, so that the transformation may be realized in real earnest.

As overseeing organizations within the government, supervisory organs should put it on their agenda as an important item to promote the earnest transformation of government functions. At present, stress should be laid on supervision over the reform of the systems of administrative examination and approval, of financial management, of labor and personnel, of social security, and of income distribution; and on supervision over innovation in such areas as the establishment and cultivation of various types of intermediary agencies and tangible markets. Firm and serious measures should be taken to investigate and punish attempts to delay or obstruct these reforms, and frivolity and formalism that lead to twisting the reforms out of shape in carrying out the Central Committee's intentions, in order that the Central Committee's reform policies may be implemented to the full, that government functions may be really shifted to economic regulation, market monitoring and control, social affair management and public service, that government functions may be clearly divided on a fundamental basis to prevent irrational and abnormal phenomena where responsibility for some affairs is shifted onto each other with no one taking

charge, while management of others is repeated by many departments. Special attention should be paid to supervision over government departments in correctly handling the relations between government and market and between equitability and efficiency while performing their functions, to ensure that they (1) do not overstep the bound of their positions lest they take over those affairs which they should not manage, and which are beyond their management and, as a matter of fact, past their ability to manage well; (2) do not absent themselves from their positions so that what should be managed by the government will be managed, and satisfactorily at that; (3) do not put themselves in the wrong position lest they act both as umpires and players; (4) do not harass the people, so that they will fully respect public opinion, consider the common people and simplify procedures and make them known to the public. These will, in turn, fundamentally improve government administration and service, optimize the environment for economic growth, and push forward economic and social progress.

II . Promoting legal administration

Administration according to law is a major change in the mode of government acts and in the system of administrative control. The 15th National Congress of the C. P. C. laid down the general plan of administering state affairs according to law, and the 2nd session of the 9th National People's Congress incorporated "administering state affairs according to law and building a socialist state under the rule of law" into its amendment to the Constitution. Administration according to law, which is the core and basis of running the country in accordance with law, reflects the fundamental interests and wishes of the people. Administrative organs are executive agencies of state power, whose law enforcement has a direct bearing upon the people's acceptance of the authority of law and faith in

the management of state affairs according to law. Administrative enforcement of the law, to a large extent, plays a decisive role in carrying out the general plan of administering state affairs in accordance with law. The decision on this plan and on legal administration has realized a fundamental change in the mode in which the Party exercises power and leadership and in which the government operates, and is of great and far-reaching significance. A market economy is an economy under the rule of law. With the establishment and perfection of the system of a socialist market economy, the government needs to combine economic, legal, and necessary administrative means in its operation, but what is the most important and most fundamental is reliance on the legal system, that is, it must operate within the legal limits of its authority and follow legal procedures without neglecting its duty or exceeding its authority, making sure that power must be accompanied by liability and exercised under supervision, and that the people's rights infringed upon must be compensated for. Thus corrupt practices can be effectively prevented, such as varying administration with individuals, rule of the "boss", abuse of power for personal gains, transaction between power and money, and abuse of power to twist the law.

Administration in accordance with law presupposes the existence of law to be followed. At present, the administrative code is not very sound yet in China; and the country's accession to WTO poses many new demands on the establishment of a system of administrative law: the role of the government is yet to be further defined, the legal system in economic and commercial domains improved, transparency of government control enhanced, government organs neutralized, and the system of supervision over and examination of administrative acts perfected. Consequently, special stress should be laid upon administrative legislation, and on formulation, amendment and abolishment of laws, decrees, regulations and poli-

cies and measures, as required by the situation after the accession to WTO. The key is to step up the legislation of administrative procedures to normalize administrative power. For this purpose, it is necessary to formulate as soon as possible a unified national law on administrative procedures, and to establish sound systems of hearings, public disclosure, challenge, agency, entrustment, separation of trial from execution, reconsideration, judicial inspection and administrative assistance, etc. so as to enhance procedural supervision over administrative acts with a view to improving the democracy and transparency of the process of government administration, to reducing administrative corruption, to overcoming bureaucracy, and to raising administrative efficiency. Administrative legislation must be ensured high quality as well as high speed; it must conform to WTO regulations as well as proceed from the actual condition of our country. Another key problem in administration according to law is that existing laws must be observed, and enforcement of law must be strict. All existing effective law and regulations must be enforced to the letter, and it should never be allowed to delay the enforcement of law and regulations already published on the excuse that they do not form a complete set. We must base ourselves on a full exploitation of existing administrative law and regulations while making continuous efforts to establish and perfect the system of such law and regulations.

To push forward administration according to law in an all - round way, supervisory organs must play their duty - bound role of supervision. As the progress of the market orientation in economic life accelerates, the examination and approval functions of government departments as targets of supervision will increasingly be changed into those of law enforcement. And that requires supervisory organs to enhance their supervision over administrative law enforcement power, to normalize its procedures and control the latitude allowed to agencies and officials of administrative law en-

forcement. In this connection, supervisory organs have the obligation to put forward legislation proposals to step up the progress of the formulation of laws of examination and approval, of property declaration, of supervision, of offence reporting, and of administrative procedures; to push forward the revision of the Law on Administrative Supervision of the P. R. China., and to work for the early publication of Implementing Regulations for the Law on Administrative Supervision of the P. R. China., so as to perfect the system of the law and regulations of administrative supervision. In sum, in order to be adapted to the development of the new situation, we should strive to legalize government operation in a relatively short time and work hard to cause governments at various levels and their departments to carry out administrative acts with good grounds and within proper limits, hand down right rulings and enforce them effectively, so that there will be laws to be observed, existing laws will be observed, offence against law will be punished, and enforcement of law will be strict.

III . Promoting efficiency

Provided that government functions have been transformed, it is essential to raise the efficiency of administration. To do so, government organs should, first of all, be streamlined rather than overstuffed, which means that public servants of those organs should be ready to accept lower posts as well as higher ones, or even to be transferred to other jobs, and that there should be channels and mechanisms for reducing personnel to heighten efficiency. Secondly, mechanisms should be strengthened for spurring and restraining public servants in the government. Thirdly, great efforts should be made to improve the rules of government work to gradually develop government bodies into one of the most efficient organizational forms in the whole society. Finally, application of information technology to government management must be speeded up and electronic government

administration popularized to create necessary material conditions for enhancing administrative efficiency. Supervisory organs should promote the increasing perfection of systems, mechanisms and rules to quicken the solution of the above problems.

In addition, administrative efficiency should be subject to supervision and inspection in order to make the various departments operate with high efficiency. This is particularly important in a period of reform, when such phenomena are of daily occurrence as waiting, watching, delaying or resisting passively, causing still lower efficiency that is already low, or even making it impossible to do anything. Supervisory organs should take measures and have ways to prevent such practices, and should organize forces to investigate and deal with them in time if such things should happen. Even after government organs and staff have been streamlined and their functions changed, there will still be the problem of efficiency, and even higher requirements for it. Supervisory organs, therefore, should seize the opportunity offered by the government system reform to earnestly step up the establishment of the system of supervision over efficiency. First of all, scientific indexes and methods should be determined for assessment in efficiency supervision; secondly time allowed for and quality of work should be normalized in proportion to the size and urgency of daily affairs; and thirdly, regulations should be formulated for punishment. Serious efforts must be made to investigate and deal with such practices as refusal to obey orders or observe prohibitions, counter - measures on the part of localities against policies from higher authorities, local protectionism, departmental protectionism, and small - group mentality. Stern investigation must be made into the liabilities of agents concerned and chief persons in charge for derelict of duty, malfeasance and losses, which result from miscarriages in decision - making, bureaucracy, loose discipline, bad attitudes, crude methods, or from refusal to obey the law and

laxness in law enforcement .

To sum up, supervisory organs at various levels should keep close to the front line in the economic development, and to the central task of the government and adjust their focus of work properly thereto. They should work as hard at efficiency supervision as they do at incorruption supervision. Through all - round performance of supervisory functions, they should ensure both the triumphant advance of the reform and a fundamental change of the work style of government bodies, so as to eradicate such vices as difficulty of access, displeasure in expression, sluggishness of action, and buck - passing, to enhance government organs' efficiency of work, and to strengthen their functions of service .

The Necessity and Possibility of Strengthening Administrative Supervision

By Jiang Qinglin *

The circumstance of public administration is now becoming one of the most important criteria for people to appraise the government's administrative level and ability in today's world. It's of great significance to study thoroughly the relation between strengthening the administration supervision and improving the public administration. A preliminary study on the necessity and possibility of strengthening administrative supervision on public administration will be discussed in this paper.

1. The necessity of strengthening administrative supervision on improving the public administration

1.1 The administrative supervision plays a vital role in improving public administration.

The public administration means the administrative functions and the public powers bestowed upon by the public and performed by the government and its affiliated organs. The public administration is a kind of service with the characteristics of profession, socialization and authority. The public administration has different meanings in different countries, although there exist certain common characteristics.

The administrative supervision organs are those government departments that perform the functions of supervision. As different people in au-

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thority have different ideas, the administrative supervision is of different importance and plays different role in different times or countries. Of course, the extent of and limits on the supervision thereof vary with the different times and countries. However, there exist certain common characteristics i. e. to supervise and safeguard public administration through setting up and perfecting the internal administrative supervision mechanism of the government.

The Law on Administration Supervision of the People's Republic of China was published in May 9th, 1997. In the Law, the nature, purpose, principles and procedures of working, basic functions and authorities of the administrative supervision organs are all provided, which are of distinctive Chinese characteristics and the spirit of the times. The intimate relation between administrative supervision and public administration was also embodied in the articles of the Law. In Article 18 "The Basic Responsibility of the Supervision Organs" in Chapter III of the Law, the supervisory and safeguarding role played by the administrative supervision upon public administration was fully stipulated: (a) To check the administrative organs' obedience and performance of laws and regulations, decrees and orders of the Government for sure that all the orders or prohibitions of the Government be implemented properly; (b) To accept and attend the complaints and claims on the public officials' or the administrative organs' misconducts contrary to the administrative disciplines for sure that the administrative disciplines were abided by and that all the public officials perform their duties legally and properly; (c) To carry forward healthy atmosphere and contain unhealthy trends and mal - practices to ensure a clean and honest government through investigating and dealing with the misconducts contrary to the administrative disciplines; (d) To enhance the efficiency of the government and its officials through conducting efficiency supervision; (e) To develop a healthy political atmosphere

beneficial to improving public administration and to establish a stable ideological basis thereof through carrying out various propaganda and education programs thereof. (f) To regulate the administrative behaviors and to promote and strengthen public administration through affording assistance in making rules and regulations thereof;

It is thus clear that a strengthened administrative supervision system can play a direct, comprehensive and powerful supervisory and safeguarding role upon the public administration.

1.2 The administrative supervision should be strengthened to improve public administration.

The People's Republic of China is one of the developing countries. Due to the complex historical and realistic reasons, public administration in the People's Republic of China is by now not perfect enough. While governments at all levels have carried out a series of plans, reform and renovating measures to resolve the problem aforesaid since Mr. Deng initiated the reform and opening up policy in the 1970's, many misbehaviors or illegal behaviors such as misconduct, neglect of duty or bribery have taken place frequently and everywhere. So, a strengthened administrative supervision system is quite indispensable for the government to perform its duty. Meanwhile, it is strongly required by the public.

On the day of Nov. 11th, 2001, the People's Republic of China was permitted to be member of WTO finally, which means that the PRC would open her door to the outside world to a further extent. Being a member of the WTO, China will meet lots of new chances to develop her economy from then on, while public administration will inevitably confront severe challenges. As a result, great changes and diversity will occur in many fields such as the content and structure of ownerships of the whole society, the social - economic formation, the patterns of employment, the structure of benefits and the style of distribution of material wealth. As

social regulators, the governments of all levels will have to confront many new problems in different fields, to resort to new measures and to make new decisions accordingly. Much more efforts should be made in enhancing the administration by law and improving the administrative efficacy. Meanwhile, the administrative supervision organs will have to, according to the changing circumstances, make progress along with the times and make adjustment in the idea, range, content, method and channel of their task to perform their duty better for sure that the public administration runs smoothly.

2. The possibility of the public administration being improved by a strengthened administrative supervision system

In the lives of the public, what should be the real and specific roles played by administration supervision? A preliminary analysis thereof will be delivered in this paper, which is based on the practice of the administrative supervision organs in Guangdong in recent years.

To adjust to the new circumstances of further reform and comprehensive open up, the administrative supervision organs in Guangdong have, according to the arrangements made by both the central and Guangdong Provincial governments, carried out the "Three Representatives" theory, which was initiated by Chinese president Mr. Jiang Zemin. Based on a changed idea, adjusted tactics and expanded field of vision, the administrative supervision in Guangdong has been strengthened and promoted step by step; and distinct improvement has been achieved in public administration accordingly.

2.1 The responsibility of anti - corruption was strengthened to set up a clean government.

As the most dangerous "cancer" of politics, corruption has been al-

ways the focus of the world's attention. Realizing that anti - corruption is of great importance to safeguard the reputation and authority of the government and to ensure that the public administration is performed properly and normally, the administrative supervision organs in Guangdong Province has made great efforts in strengthening the function of anti - corruption and has taken all the measures as follows: (a) To assist the government in punishing the officials who committed misconducts as abusing power for personal gains, bribery, neglect of duty, gaining official position through bargain, etc. which disrupted the public administration. According to the statistics available, 4791 claims and complaints were accepted only in 2001. Officials summed to 5371 were investigated and punished accordingly, including 26 officials of higher rank and 255 of middle rank. Through the investigation aforesaid, an economic loss summed to 1.77 billions RMB were redeemed. (b) To check and amend unhealthy tendencies occurred in different departments and units, of which the focal points are the "Three Indiscriminations" on highway (i.e. the indiscriminate setting up of toll booth and collection of extra charges and fines, which might be illegal), the illegal collection of extra fees by the elementary school and middle school and the imposing of extra unreasonable or illegal burden on enterprises and peasants, which are all hot issues vigorously resented by the public. 610 million RMB of unreasonable burden imposed upon the peasants was cut only in 2001. All the work and achievement aforesaid has closed the relation between the government and the public, made the officials on guard against corruption or misconduct and promoted to build a clean government steered by the government itself and its officials.

2.2 The administrative behavior and performance are standardized through deepening the reform.

As pushed by current circumstances, the administrative supervision

organs have adjusted to the changes occurring in the course of building and perfecting the market economy system and supported the government in deepening the systematic reform and to make innovations in system, mechanism and rules and regulations so as to deepen the anti - corruption struggle and to regulate and standardize the administration performance. Aiming at the goal aforesaid, the administrative supervision organs of Guangdong Province have taken measures as follows: (a) to implement the responsibility system of construction of a clean and honest government at all the levels of Province, municipality, county (district), town and village. Concrete measures were carried out and inspection was arranged and strengthened. 308 public officials were investigated and punished due to misconduct of duty in 2001 only; (b) to reform the administrative examination and approval system. Since the last months of 1999, the reform of first step was carried out and 767 items were cut down from the 1972 items, which had to go through the administrative examination and approval procedure before being put to utilization. The reduction rate thereof summed up to 38.89%. The reform of a second step is being now in process; (c) to reform fiscal system centering on the concentrated payment of national treasury, governmental purchase plan, separated management of administrative charge & collection. The welfare of the public officials was also taken into account; (d) to reform the personnel system, the emphasis thereof being laid on the open competition of public offices and specific posts and the pre - announcement of the appointment; (e) to build the "three elementary markets" i. e. the markets of tangible construction, land - use rights and property rights; (f) to make the official businesses of the government, the village and the enterprises known to the public, and to strengthen the democratic management and the construction of democracy in the governments at basic levels. The implementation of all the measures aforesaid standardized and perfected the management func-

tion of the governments at every level under the circumstances of market economy, which contained the emerging and spreading of various negative or corrupt behavior and phenomenon from the origin.

2.3 To carry out the propaganda and education program and optimize the circumstance of the performance of the public administrative functions.

It's quite important for setting up a line of defense against corruption and improving the public official's quality to carry out and strengthen the propaganda, training and education programs. Meanwhile the political circumstances of administration could be optimized accordingly. In recent years, the administrative supervision organs in Guangdong Province have given full play to their functions, made use of both the positive and negative models, and taken measures as follows: Firstly, the activities of "discipline education and propaganda month" were carried out in July every year; and the management, plan, specific measures and check thereof were arranged comprehensively. They studied a lot of laws and regulations in recent years such as the Administrative Supervisory Law of the People's Republic of China, laws and regulations on rectifying and regulating the economic and market rules and orders and so on. Secondly, the propaganda and education activities were carried out through various ways and fashions. While studying the literal files and materials and watching the audio and video materials and movies, they held the Exhibition on the Achievements in the Party's Conduct and the Construction of A Clean and Honest Government and Fighting Corruption of Guangdong Province and held the contest on knowledge about the Administrative Supervision Law of the People's Republic of China for the purpose of broadening the scope and improving the effect thereof. Thirdly, the training courses for staff members of administrative supervision organs were conducted regularly. The idea that the human is fundamental was embodied therein. In 2001,

274 training courses were held and 15000 people were trained.

2.4 Great efforts were made in implementing the construction of legal system to promote the administration in accordance with the law.

In summarizing both foreign and domestic historical experience and lessons (of fighting corruption), Deng Xiaoping said, "It will finally resort to the legal system" to set up a clean and honesty government, for "the legal system will be more dependable (than other ways)". According to that idea, which was repeatedly emphasized by Mr. Deng, Chinese central government made the policy of administering the country by law, which gained the cordial support and active participation of the public. The administrative supervision organs in Guangdong Province implemented the policy aforesaid, made great efforts and assisted the government in making the administrative rules and regulations as follows: (a) In line with the process of building the market economy and the need of developing Guangdong, a lot of regulations were made to regulate the relation between public administration and economic development such as the Provisional Regulation on Discipline Action on Behaviors Contrary to the Financial Laws and Regulations, the Provisional Regulation on Discipline Action on the Production and Sale of Fake and Shoddy Goods, the Suggestions on Preventing Public Officials and Working Personnel From Running away with Public Money and so on. (b) The official activities of the government's staff members were regulated according to the nature and character of the public administration and the regulations such as the Provisional Regulation on Forbidding Offering and Accepting the "Red Packet". (c) To solve the problems occurring in the process of comprehensive progress and development of spiritual civilization in Guangdong and to regulate the public official's social behaviors, some regulations were made such as regulations on forbidding behaviors concerning "obscenity, drugs

and gambling", regulations on fighting behaviors concerning using the computer and information network which are contrary to laws and disciplines. (d) Great efforts were made in amendment and perfection of laws and regulations for sure that the laws and regulations are scientific, practical, authoritative and smooth in execution; the survey, supervision and check on the execution thereof were carried out accordingly. At present, the legal basis of the public administration in Guangdong has been fundamentally set up, which will act as essential judicial guarantee for strengthening and improving the public administration.

2.5 The supervision on law enforcement was strengthened to raise the administration efficacy.

With the fast development of economy and construction, the public administration's sphere is expanding step by step. In the previous years, to assist the government in raising the administration efficacy, the administrative supervision organs took a series of measures to strengthen the supervision on administration of law. Firstly, the supervision on law enforcement was carried out centering on the economic development. For instance, the specific supervision were implemented successively, such as the supervision on the operation of the supervisory system on the Three Elementary Markets, the reform of the circulation system of grain, the investigation on responsibility for major accident and the punishment thereof, the rectification of the market and financial order, the overcoming of the unhealthy tendencies in the purchase and sale of medicines. Distinct result thereof was achieved. Secondly, the relation among supporting the reform, promoting the development and safeguarding the stability was resolved properly in the process of supervision on law enforcement. In recent years, for instance, in carrying out the supervision on rectifying market economic and financial order, the administrative supervision organs made great efforts in assisting the judicial departments in investigating and

punishing the corrupt officials who broke the economic and financial laws and disciplines severely. On the other hand, holding the principle that "to support the pioneer, encourage the reformer, castigate the boaster, educate the ones who ever slipped up, punish the corrupt and to chastise the calumniator", they assisted the units or departments where corrupt affairs occurred to carry out further reform, make progress in economic development, maintain social stability, sum up the experience or lessons if any and perfect the internal management, which achieved the result of "mending the fold before a second sheep is lost", i. e. making remedy before further damage takes place. Thirdly, the time and space scope of supervision was widened in the process of supervision. For instance, along with the setting up and running of the land and construction markets, the public administration concerning the field of construction and the supervision thereof are now extending both in space and time. Fourthly, a serial relations were resolved properly, such as succession and innovation, model and universality and internal supervision and external supervision. In recent years, based on summing up and popularizing the advanced experience of Guangzhou, Shenzhen and Dongguan, etc., the administrative supervision in Guangdong Province has been enhanced forcefully and the level thereof has been largely raised. Plentiful achievements were gained in improving the public administration of the governments at all levels in the Province.

To sum up, along with the development of situation, a strengthened administrative supervision system will play a direct and positive role in improving public administration. Furthermore, the administration and the supervision thereon can promote each other and be in perfect harmony. If one is the cause, the other will be the result, *vice versa*. We can say based on the experience in Guangdong that: while the administrative supervision is being strengthened and improved, the public administration

will be perfected step by step and exert a positive social influence provided that a proper and correct guiding ideology, ways and methods are adhered to, progresses are made uninterruptedly along with the times, the innovation, creation and practice are encouraged.

Improving Public Administration by Reinforcing Supervision

By Nong Lijin *

It is a common issue in various countries wishing to adapt their public administrative systems to the course of economic globalization in this new century. It is of vital importance for China to research on this issue after she joins WTO as a developing country. China's administrative body has tried all means to enhance government capacity of tackling challenges and ventures. We hold that reinforcing supervision is an efficient way to improve public administration.

I

Empowered by law, administrative orders and regulations, public administration acts to provide public services and management through governments and their staff in name of the people and the nation. As the provider of public services and management, a government shall be just and unselfish in guaranteeing benefits of all people and the whole nation. It shall not be the exclusive tool of a limited number of individuals or groups of them to pursue privileged interests. Nevertheless, there exist irresponsibility, abuses of public power that bring harms and losses to the interests and benefits of the state and the people in both the course and the result of realizing public administrative action. Such irresponsibility and abuses can be found in any country regardless of its level of economic

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development, or political system. The cause lies in the nature of the active dynamic role, strong discretionary power and implementation coercion of public executive power. Lack of supervision makes it possible for public executive power to be turned into an unscrupulous mace for individuals and small interest groups.

In China, Supervision Departments are organized as special functional bodies to supervise public administration. They are reinforced by laws past in recent years and have acted in systematic and lawful ways to build an honest and clean government. Such laws and regulations related to supervising administration include *Administrative Procedure Law of the People's Republic of China*, *Law on State Compensation of the People's Republic of China*, *Law on Administrative Supervision of the People's Republic of China*, *Law on Invitation for Bid and Tender of the People's Republic of China*, *Provisional Regulations on Public Servants and Regulations on Administrative Reconsideration*, etc..

While executing national laws and regulations and exercising relevant systems, Guangxi Zhuang Autonomous Region has enacted relevant local laws, regulations and systems based on the actual situations focusing on the supervisory normalization and laid stress on administrative supervision on the use of "power, funds and personnel". Thousands of items of administrative examinations and verifications have been cancelled. In some cities and prefectures, administrative examination and approval halls have been set up. Diaphaneity of administrative examination and approval and work efficiency have been improved through the "window/counter" and "one stop" office operational modes; more than ten thousand units have grouped administrative and constitutional collect fees into special account for supervision, system of government purchase and accountants assignment as well as cadre superintendent systems such as leading cadres' data published for comments prior to appointment, exhortative talks and

cadres' economic responsibility audit have been adopted; some law - breakers and discipline breakers of government offices and public servants have been chastised and the work style of public administration has improved markedly. Consciousnesses of supervision and service have been strengthened, work efficiency has been increased and as a consequence government offices and public servants have been on a normalized track - administration according to law and maintaining incorruption and clean. Both theory and practice have proved: to strengthen administrative supervision is an efficient way to improve public administration.

II

Currently, the existing administrative supervision in China has not been optimized to adequately fit the needs regarding its improvement under new situations. Therefore strong measures need to be adopted in order to effectively improve the efficiency of public administrative supervision. The goal can be achieved through the following measures:

(1) Effectively supervise public administration with consolidated administrative supervisory function.

To give full play to administrative supervisory functions in order to effectively supervise the government, its correlated departments and public servants, ensure government prescripts can be fully carried out, administrative supervision mechanism must be optimized, administrative supervisory power must be strengthened, the right of inspection and power of investigation endowed to administrative supervisory bodies must be made good and proper use of.

All - level administrative supervisory bodies should timely set up organs whose duty is to audit the "fiscal privileges" of the public administration. Administrative supervisory bodies should be endowed the power to take the initiative to jointly handle, organize and coordinate legal cases

with judicial, public security, industry & commercial, financing and tax organs. This endowment should be legalized and institutionalized in order to give full rein to the positive effects of all the functional departments to betimes assist public administrative supervisory bodies during their execution of power over public administrative supervision.

(2) Stiffen the build – up of administrative supervisory teams and potentiate public administrative supervision.

1. Intensify training and further increase the diathesis of the present administrative supervisory personnel. Training shall be offered to the present administrative supervisory personnel in groups and at different times on knowledge of electronic information technology, financing, accounting, construction engineering, real estate and modern economy etc. besides idea and moral characters, supervision and laws so as to be able to fit into the supervisory work in the fields of financing, real estate and construction engineering.

2. Pick and take on board excellent, young talents who have both ability and moral integrity with high education attainment and modern scientific and technological knowledge to the administrative supervisory bodies. Optimize the talents structure in order to increase capacity and keep the administrative supervisory bodies vigorous.

3. Township – level governments should also be disposed with administrative supervisory personnel with an aim to effectively supervise public administration in the base – level and prevent occurrence of false reports, turgidity, falsifications, abuse of public rights which cause damage and loss to people's interests and benefits during the execution of public administration in townships.

(3) Strengthen the build – up of laws and regulations and normalize public administration behavior.

Since the adoption of the reform and open door policy, serials of

laws, rules and regulations have been enacted in China, which can be proved by the great progress and improvements with regard to legal system. But in order to solve the problems of inefficiency and keep a clean and uncorrupted government by the root and normalize public administrative behavior, it is necessary that we lay great stress on the build up of laws and regulations:

1. Speed up the constitution of laws and regulations like *Law of Administrative Procedure*, *Law of Incorruption of Public Servants* and *Law of Anti - corruption* etc.) in which the power of government and its relevant departments under the present market economic circumstances is legally stipulated and on what public administration can legally base on so that public administration can be exercised and corruptions shall be punished according to law and to prevent occurrence of malfeasance like "words speak louder than the law" and "the law disrupted by power" if any. Highlight the confinement and restrictions during the exercise of administrative power so as to maintain a clean and diligent government.

2. Reduce the numbers of items needed the approval from the government, gradually substitute administrative means with market means, normalize the tender and bidding system and separate the functions of government from those of enterprises.

3. Establish centralized financial payment system, self - accounts of each department should be cancelled, special and separate financial account should be set up, monitored and supervised.)

4. Step by step, the management prerogatives of state - owned monopolistic enterprises should be separated; the economic privileges and preferential policy granted to them should be retracted. Other districts and enterprises should be allowed to participate in fair competition.

5. The transparency of power execution should be increased; open administrative proceedings should be adopted. All departmental adminis-

trative authority, office gist, procedures, standards and results except those classified as state secrets should be made known to the public and subject to public surveillance, especially those hot spot issues that people care the most must be handled with great care, open to the public, the executive of authority must be normalized and chances of power and money exchange reduced. Staffs should improve work style of public administration and try by all means to keep the government a clean and incorrupt one.

(4) Emphasize on investigation and strengthen consciousness of responsibility in public administration.

To cope with the existing problems of administrative institutes and public servants during the exercising of public administration, it is necessary for us to lay stress on investigations:

1. Stick to the principle of "responsibility goes to the person in charge" and establish a goal responsibility system, namely, as the public administration's first person liable—the chief government leader should be responsible for the public administration in his/her area, the chief department head should be responsible for the public administration in his/her department. Specific departments, units and staffs should bear their own responsibilities respectively. Excitation mechanism should be established; encouragement and rewards should be granted to excellent, efficient and incorrupt units and individuals and credited to promotions.

2. Build up a complete chastisement system that fits the operation of market economy.

Investigations on administrative bodies, officials and staffs concerned must be strictly carried out should there be any blight events that cause great economic losses or serious sequences due to undue public administrative act/behavior. Appropriate administrative penalties must be given to negligent units, officials and staffs, besides, new and easy to implement

political responsibility system of resign for the blame and ordered to resign can also be adopted.

For those delinquent, law – breaking, office power abusing and corrupt units, officials and individuals during the exercise of public administration, investigations for administrative responsibility and criminal responsibility must be conducted; those who deliberately break the law, knowingly violate laws and regulations should be deprived the right to go into politics the whole life – time besides being investigated and fixed administration and criminal responsibilities upon; economic punishments such as endowment insurance cancellation etc. besides illegal gains confiscated as means to deter those who think they have strong backing so as to defy laws, rules and regulations; meanwhile criminal responsibility of administrative offices' nonfeasance must be investigated and fixed upon. The take for granted thought and act of "no act, no fault" must be wiped out. Strong consciousness of responsibility must be built up in and among administrative offices, officials and staffs so that they attend to office duties in accordance with the law and willingly serve the people with excellent supervision. In this way a clean, diligent, practical and high efficient government can be secured and the goal of improved public administration can be achieved.

On the Interactive Relationship between Reinforcement of Administrative Supervision and Improvement of Public Administration

By Zhang Haiguo *

Public administration generally refers to administrative acts by state administrative organizations (including state administrative organs and other organizations responsible for public administration) over public affairs within the constitutional as well as legal frameworks. State administrative organs, as the major organizations for public administration, perform most functions of public administration, including the most important ones. Since the 1970s, with the advancement of market-oriented reform in most countries, development of modern science and technology (especially IT), deepening of globalization and increased attention by individual countries to greater international competitiveness, the weaknesses of the traditional public administration system such as rigidity, formality and low efficiency have become increasingly conspicuous. As a result, the public demand for improving the public administration system for higher efficiency has run high. Indeed, more and more governments have reached consensus on this issue and responded to such demands by adopting practical measures. As the internal supervisory and inspecting mechanism, administrative supervision targets at administrative organs as well as their activi-

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ties and is therefore inherently linked up with public administration. Under the new situation, we need to heighten our understanding of the importance of strengthening administrative supervision and improving public administration and conduct in - depth study to specify the interactive and mutually reinforcing relationship between the two aspects. This would be helpful for supervisory organs to strengthen administrative supervision by taking advantage of improved public administration on the one hand and for government to facilitate steady improvement of public administration by fully using the means of administrative supervision on the other.

1. Implications of improved public administration for strengthening administrative supervision

1.1 The administration system of a country determines to a large extent the performance of administrative supervision.

The objectives and basic tasks of administrative supervision are to penalize malpractice of administrative organs and public functionaries, supervise the exercising of administrative power, urge administrative organs to improve efficiency and prevent administrative organs and public functionaries from engaging in power abuse, negligence of duties and trading of power for personal gains. However, the fulfillment of the above objectives and tasks does not depend on the efforts of supervisory organs alone. Instead, the effects of administrative supervision are largely dependent on properly defined functions of administrative organs, reasonable division of power and strict regulation over procedures of exercising power.

China had long been practicing the highly centralized systems of a planned economy before the policy of reform and opening was initiated, with the government controlling the production, circulation, distribution and consumption of the whole society through its mandatory plans. This invariably resulted in over - control of government on social and economic

issues, highly concentrated administrative power, all – inclusive administrative functions and awkwardly redundant government institutions. In its transition from a centrally planned system to a socialist market economic system, China's long – standing administration loopholes have given rise to a multitude of rent – seeking activities and widespread corruption in some administrative organs. With regard to the high incidence of corruption, supervisory organs have made their focus of the construction of a clean and honest government and increased their efforts in disclosing and handling malpractice and illegal conducts of government officials. Consequently, a large number of corrupted high officials have been brought to justice. However, corruption still runs rampant in some departments, as age – old shortcomings of the administrative system have not yet been done away with. With the recurrence of influential and daring breaches of laws and disciplines, supervisory organs have to stretch their capacity in coping with individual cases, leaving little time and energy to tackle the most fundamental problem.

1.2 Transform the government's administrative functions to create favorable conditions for strengthening administrative supervision.

Since 1992 when the Chinese government proposed to set up a socialist market economic system, the administration system reform has been steadily deepening, which has led to reorientation of government functions under conditions of a market economy. The following points were made in the Resolution of the CPC Central Committee on Several Issues Concerning the Construction of a Socialist Market Economic System issued in November 1993: "Setting up a socialist market economic system means to enable the market to play the basic role in resources allocation under the state macro – regulation.", and "The government function in managing economy is mainly to make and implement policies of macro – regulation, im-

prove infrastructure and public utilities and create a favorable environment for economic development.” The State Council Plan on Government Institution Reform adopted at the First Session of the Ninth National People’s Congress in 1998 went one step further. It clearly stated that “government functions should be transformed according to the requirements of developing a socialist market economy to separate government from enterprises and government should focus on macro – regulation, social administration and provision of public goods while giving full autonomy to enterprises in production and operation.”

In recent years, the Chinese government has waged a massive campaign to reform the system, organs and ways of administration by following an up – to – down approach and focusing on function transformation. As a result, it has strengthened macro – regulatory departments such as planning, financing and central banking and improved economic and legal regulatory means as well as regulatory mechanism. In addition, specialized economic administration departments have been significantly restructured and downsized, with their key responsibilities clarified as making industrial planning and policies to regulate product structures and level the playing ground, rather than directly managing enterprises. Moreover, law enforcement departments have been reinforced, with departments of quarantine inspection, industrial and commercial administration, quality control and drug inspection adopting vertically integrated administration under the central or provincial government. Last but not least, trade associations and intermediary organizations are playing an ever – important role in the development of a market economy. The market – oriented change of government functions is a hallmark of transition from an “omnipotent government” to a “limited yet effective government”. While the government refrains from directly managing or interfering with economic activities, its role of indirectly organizing, guiding, regulating and supervising economic

activities is being strengthened. This will greatly reduce chances of power abuse in public administration and create a solid foundation for the construction of a clean and honest administration. Supervisory organs, on the other hand, can better arrange their priorities in work and shift from penalizing malpractice and illegal conducts to urging administrative departments to change their functions, preventing malpractice and illegal conducts from happening, and improving administration effects.

1.3 Many measures of administrative reform have targeted at fighting corruption and directly reinforced administrative supervision.

Over recent years, the Chinese government has aimed at constructing a clean, hardworking, practical and efficient government, where the concept of incorrupt government is given high priority. A series of administrative reform measures have been adopted, according to the requirement of setting up an efficient, coordinated and well-regulated administrative system. These measures include introduction of market as well as competition mechanisms into public administration and involvement of more public participation to enhance administrative efficiency and transparency and better supervise the exercising of administrative power. For instance, to enhance transparency of government administration and involve more public participation, the Chinese government has vigorously pushed forward public posting of government affairs at the township, county or even city levels. To better supervise the use of state revenues, the fiscal system has undergone reform, with all the revenues and expenditures of some key administrative departments integrated into the central budgetary planning and management. To respond to the needs for a government of higher efficiency and free from corruption, E-administration has been proposed. With regard to administrative review and approval systems, where governments at various levels have exerted too much undue intervention in an ill-regulated and opaque manner, big-bang reform has been conducted to slash

down items requiring administrative review and approval, strictly regulate procedures of review and approval and strengthen supervision. Such reform measures have enabled market mechanisms to play the basic role of resources allocation, improved government macro-regulation, effectively curbed cronyism and power abuse and pushed forward the construction of a clean and honest government.

2. Implications of strengthened administrative supervision for improving public administration

2.1 In performing their due functions, supervisory organs are in a position to detect shortcomings of the administrative system, thus driving forward improvement of public administration.

The reform in some other countries has shown that economic transition tends to breed corruption, as the reform of administrative system lags behind. In supervising the behaviors of administrative organs and government functionaries, supervisory organs, more often than not, can detect ahead of others the institutional problems leading to corruption. While handling corruption cases and performing other supervisory functions, supervisory organs at various levels have highlighted the problems of highly inflated and concentrated administrative power and lack of transparency and public supervision in exercising of power. Based on such findings, supervisory organs have put forward a great deal of recommendations in terms of allocation, regulation and supervision of administrative power, achieving satisfactory results in improving public administration. For instance, the Haikou supervisory authority in Hainan Province found in its work that investors complained a lot about various bureaucracies of some administrative departments. Based on extensive investigation, the Haikou supervisory authority proposed in 1996 to Haikou Municipal Government that "three rules" be followed by administrative and public service depart-

ments, i. e. the rules of direct handling, open counter service and social service commitment. The proposal was warmly received by the municipal government and implemented citywide. The core value of the "three rules" is to provide open services, simplify procedures, save troubles for people, standardize operations and strengthen supervision. The implementation of the "three rules" has consummated the administrative system, reinforced supervision over the use of administrative power and facilitated the transformation of government functions as well as the construction of a clean and honest government.

2.2 As many measures of public administration reform are implemented with the supervision, participation and coordination of supervisory organs, administrative supervision has become an important guarantee for improving public administration.

In recent years, supervisory organs at various levels in China have brought their role into full play and actively participated in the reform of public administration, including propelling, supporting and coordinating the smooth implementation of a series of administrative reform measures by competent departments. For instance, to strengthen road maintenance and construction and improve the collection of various road - related fees, the Hainan Provincial Government assigned the transport authority to exclusively collect, since January 1 1994, road maintenance fee, bridge toll, road toll and road transport management fee in the form of "fuel - oil tax". This "four - in - one tax" collection marked a departure from the past chaotic collection of fees by various agencies. As a result, the funding source of road maintenance and construction is guaranteed while all the tollgates are removed to generate more efficient transportation. The old headache of unreasonable tollgate setting, fee charging and fining has thus been cured at the root. The Hainan Provincial Supervisory Department moved quickly to supervise the implementation of such a reform measure

by selecting seven cities and counties including Haikou and Sanya for checking the transport, storage and sales of fuel - oil. In addition, the Supervisory Department urged relevant departments to crack down on fuel-oil smuggling, toll charging and fee collection. These actions have ensured the smooth implementation of road - fee collection system reform across the province and Hainan has become one of the first provinces in China where unreasonable tollgate setting, fee charging and fining almost completely disappear.

2.3 Reinforcing supervisory organs and personnel is of great importance to improve public administration.

Supervisory organs are responsible for improving the effect and efficiency of public administration as well as rectifying the work style of government departments. Reinforcing supervisory organs and personnel is therefore a prerequisite for giving full play to the role of supervisory organs and hence improving public administration. Since the restoration of supervisory organs in China in 1987, supervisory organs and personnel have received steady reinforcement, which has been particularly so after China started in 1992 to redouble its efforts in advancing market - oriented reform and fighting corruption. The basic role of supervisory organs in the new historic era has been identified as ensuring the smooth implementation of government decrees and maintaining administrative disciplines. Accordingly, it has become an important part of daily work of supervisory organs at various levels to make sure that decisions and orders of the central government on administrative reform are properly carried out. The supervisory leadership structure has also been reformed. While local supervisory organs are required to report to the government at the same level and the supervisory organ at a higher level, they mainly follow the instructions of the latter in their work. This helps prevent interference from various sources with supervisory organs in performing their duties. The internal monitoring

mechanism has also been established for supervisory organs to keep an eye on the performance of supervisory personnel. The links between supervisory organs and people have been strengthened through the public tip – off system, which involves more participation of people in supervising government departments and officials. Additionally, as a response to the requirements of developing market economy and transforming government roles, supervisory organs have given top priority to supervising and urging governments at different levels and functionaries to correctly perform their duties, consummate the management system, improve work style and enhance efficiency. The supervisory organs have also actively explored effective ways of tackling corruption in an all – round manner so as to eradicate corruption by the root through system reform. The practice of administrative supervision in China has shown that reinforcing supervisory organs and personnel has been a process accompanied by steady improvement of public administration. Given the reciprocity between public administration and administrative supervision, reinforcing supervisory organs and personnel has become an important part of improving public administration. With the deepening of public administration reform, supervisory organs will need to further clarify their functions to exercise more effective supervision on administration, improve work style to provide fundamental solution to fighting corruption and strengthen their dynamic links with people with a better public reporting system. Furthermore, supervisory organs shall better coordinate with other government departments to give full play to the role of administrative authorities in upgrading public administration, introduce information – based development, apply modern technology in fighting corruption, and further reform the leadership structure to enhance the status, means and authority of supervisory organs. Only in this way, can supervisory organs play an even better role in improving public administration.

Guarantee Public Supervision by Means of Administrative Supervision

By He Shizhong*

Power, as a product of the development of human history, while it can help keep society moving forward, is always tending to alienate as a result of corruption by selfish desires. Therefore, it should always be kept under control in order to keep its normal functioning. Just as the noted British historian John E. Acton says, "Unrestrained power will surely lead to corruption, and absolute power will lead to absolute corruption." The Chinese system of government supervision is aimed at eliminating absolute power through power restriction within the government by way of blocking the union of selfish desires and power so as to stop the emergence and the spread of corruption. Meanwhile, great efforts have been made to promote democratic politics, and bring into play to the maximum the supervision outside the government that is characteristic of citizen supervision, and this will form the broadest social base for supervision and help achieve the most effective administrative supervision.

1. The necessity for bringing public supervision into full play in the work of administrative supervision

Departments of administrative supervision has the basic function of carrying out comprehensive supervision and examination over State administrative departments, civil servants and other personnel authorized by

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State administrative departments. The effective carrying out of this function depends on the full display of the function of supervision of the common public.

Supervision by citizens is the basis and precondition for administrative supervision. The government supervision departments in China are supervising organs of the people's government to carry out supervision, and, therefore, they must reflect the views of the citizens and represent their interests. And naturally it follows that government supervision departments must rely on the supervision from citizens. Public supervision embraces a wide scope: any citizen can supervise in one way or another over the supervised; any act against the law or regulations or errors and deviations made in carrying out administrative duties may be supervised, and whatever target, be it a government department of any level or an official of any rank, cannot stay away from the supervision of citizens. It is the wide scope of citizen supervision that keeps an inflow of large quantity of information and makes government supervision more effective. Only by relying on the support and participation of citizens can administrative supervision function to the best effect. Without supervision by citizens, administrative supervision will be like water without a source, or a tree without roots.

Supervision by citizens is a driving force for the functioning of administrative supervision. In carrying out administrative supervision, supervision by citizens is indispensable, either in supervision over implementing the law, supervision against corruption, supervision over work efficacy of the government departments, and supervision over handling a case, or over formulating guiding lines, policies and regulations. It has been clearly stipulated in *The Law of Government Supervision in the People's Republic of China* that "Supervision work should rely on the masses of the people." Besides, "Relying on the support and participa-

tion of the masses" is also an important component of the system of leadership and mechanisms of operation against corruption. Meanwhile, as citizens are victims of illegal acts and wrongdoings of government departments or officials, they have a strong desire for seeing people who have committed illegal acts punished and wrongdoings rectified. When their own rights are infringed upon, they will file charges or make complaints. This, naturally, will urge departments of administrative supervision to fulfil their duties in real earnest.

Supervision by citizens plays an important role in supervising administrative supervision work. Departments of administrative supervision are at once the supervisor and the supervised. They represent the interests of citizens and rely on them to do their duties, and at the same time they should unconditionally put themselves under supervision of the citizens. The broad masses of citizens can best judge whether departments of administrative supervision are playing an effective role in keeping government decrees work unblocked, in implementing government discipline, in promoting construction of an honest and clean government, in improving administrative work and in raising effectiveness of the government and whether the administrative supervision departments have acquired special privileges, or have done anything against laws, regulations and policies set by the State. Criticisms, suggestions and opinions from citizens can urge administrative supervision departments to discover problems and improve their work in time. Only when these departments keep themselves conscientiously under the supervision of citizens can they do their work well.

2. Ways and approaches for citizens to exercise supervision in administrative supervision work

There must be certain carriers or channels for citizens to exercise su-

per vision. Supervision departments at different levels have been paying special attention to the organic unity of administrative supervision and citizen supervision and to keeping all channels open to citizen supervision, and they are exploring new and more effective ways and approaches for citizen supervision under new conditions.

Make full use of ways to promote citizen supervision commonly shared by state organs. In the long process of practice, a set of ways and approaches for citizen supervision have formed, which suit the conditions in China and have proved effective. These ways and approaches, if properly used by government supervision departments, can bring into full play the functions of citizen supervision. The main channel for government supervision departments to give full play to citizen supervision is to properly receive letters of complaint from the people and the calls they make to lodge complaints and their reports to inform government supervision departments of cases of breaches of laws and disciplines. By properly treating these letters and calls, hearing their complaints about, criticisms against and suggestions to government departments and civil servants, and by properly treating their reports and charges in court against cases of violation against laws and disciplines, government supervision departments can find clues of such cases on the one hand, and give full play to the supervision function of such letters and calls from the people. The news media is another important way through which citizens can exercise their function of supervision. Government supervision departments can publicize laws and regulations concerning honest and clean government, make public the key points of government work at different stages of time, make known results of investigation and prosecution of serious and important cases, make public phone numbers of government department offices for report and supervision by the masses, offer information to the public, and offer guidance for citizens to properly exercise their right for supervision.

Another important channel is for government supervision departments to deal with proposals put forward by representatives of the People's Congress and by members of People's Political Consultative Conference. These proposals, to a large extent, reflect the need and desire of the broad masses of the people, and they show the will of the general public and symbolize supervision by the citizens. Therefore, to do a good job in dealing with their proposals will enable citizens to better exercise their right to supervise. Government supervision departments at different levels have been encouraging citizens to supervise in these ways and through these approaches, and have achieved good results. For instance, in handling letters, calls and reports from citizens to government departments, the Chongqing Municipal Bureau of Supervision has actively encouraged citizens to do so, offered them guidance and rendered protection for citizens who offered information or reported on cases of law breaking, and have looked into every case concerned in real earnest. The Bureau has been strengthening its ties with representatives to the People's Congress and members of the People's Political Consultative Conference, has dealt with their proposals earnestly, giving a reply to each and every proposal and has reported to them on the result of each case. In the last 5 years, government supervision departments in Chongqing have received and properly handled over 156,000 reports and information against cases of law breaking, and the Municipal Supervision Bureau has dealt with more than 130 proposals by representatives to the People's Congress and members of People's Political Consultative Conference. The Bureau has offered timely solutions to some problems raised by citizens, making citizen supervision more effective.

Create special forms for government supervision departments to encourage the citizen to exercise their right to supervise. In recent years, after some experiments and explorations in widening ways and channels

concerning citizen supervision, government supervision departments have initiated a number of effective forms and practices, including setting up the system of specially - invited supervisors, the system of inspection on building an honest and clean government, the system of encouraging democratic comments on style of work of different trades and government departments, etc., and these forms and practices have proved effective and fruitful. For instance, the Chongqing Municipal Bureau of Supervision has invited 428 representatives from democratic parties, public figures with no party affiliation, scholars and specialists, model workers, and representatives from people's associations, enterprises and institutions. The Supervision Bureau has been making reports to these representatives regularly on supervision work, hearing their opinions and suggestions, inviting inquiries and supervision from them, and asking them to participate in such supervision activities as commenting on work style of different trades and government departments, examinations on work of special fields, expounding and proving laws and regulations, and so on. These practices have made the representatives bridges and ties between the people and the government supervision departments, and the function of citizen supervision finds its concentrated, focused expression. And then take the democratic comment on work style of different trades and branches of government departments for instance. In Chongqing, for example, besides hold meetings of representatives from different walks of life for commenting on the work style of various government departments and trades, the supervision departments have handed out Inquiries on Popular Opinions or have set up "seeking public opinion desks" on the street at business centers to hear from citizens directly, to collect their opinions and suggestions, to look into their complaints, so as to make citizen supervision more wide - spread and more effective. Through inviting comments on work style of different government departments and different

trades of business, quite a number of hot issues and hard problems that used to be focuses of social attention have been solved, market economic order has been straightened out and standardized, and work style of government departments improved and government work made more effective.

Make efforts to create favorable conditions for citizens to exercise supervision. To ensure that citizens enjoy the right to be informed of the actual fact is a precondition for citizens to exercise supervision effectively. In the last few years, a practice has been popularized in China to keep the government affairs, the village affairs and the factory affairs open to the public in order to guarantee citizen's right to be informed. Active measures have been adopted by government supervision departments of various levels to ensure that the "keeping things open to the public" system is implemented and fully carried out. Rules and regulations have been laid down, for instance, concerning treatment of cases of violation of the "keeping things open" policy as a disciplinary guarantee for the openness of government work. Regular inspections and check - ups have been carried out to urge government departments to publicize the policies and practices in their work and keep themselves under the supervision of the public. Rectify and punish people involved in cases of violation against "the keep things open" policy. In some places and some government departments, measures have been adopted to make government service convenient and easy for the public: "hall for honest and clean government" and "hall of government service" have been set up, "one stop service" have been established, which greatly raised the efficiency of government work. These measures have achieved very good social results. Meanwhile, government supervision departments at different levels have made efforts to combine the building of an honest and clean government and combating corruption with the policy of "keeping things open to the public", so that the policy of openness finds concrete expression in concrete

government work in different fields. In matters concerning government procurement and bidding for construction of tangible buildings on the construction market, government supervision departments in Chongqing have exercised their functions earnestly, and have urged and guaranteed the openness in the use of power on a wide scope and in a detailed way, so that citizen supervision is realized in a good, democratic atmosphere. In recent years, China has adopted some new measures to enhance the work of citizen supervision, including practices of hearing and citizen auditing. These measures are concrete ways in promoting democratic politics and expanding citizen supervision. A hearing system can be gradually established in some administrative supervision activities, including the making of supervision laws, taking administrative disciplinary actions against government workers, and citizens can be invited to audit some important meetings of government supervision departments, so that citizens will enjoy a larger degree of information sharing and a higher degree of participation, and play a greater role in supervision.

3. Ensure the exercising of citizen supervision by administrative supervision methods

A great deal of work has been done in administrative supervision in China to ensure citizen's right to supervision and encouraging citizens to play a greater role in supervision. With the development of situation in China, the relation between citizen supervision and government supervision has been growing closer and closer, and thus needing more guarantees to citizen supervision from government supervision. Therefore, we must ensure citizens' effective exercise of their right of supervision by means of administrative supervision.

Intensify propaganda and education to raise the quality and level of citizen supervision. In order to raise the supervision consciousness of citi-

zens and improve the efficiency in their supervision, propaganda and education must be promoted. While carrying out education in ethics and morals of citizens, prolonged and deep – going education in democratic supervision must be carried out at the same time, so as to help citizens realize that they are the masters of the country, and they have the right to supervise over state organs and civil servants. In this way, the initiative of citizens will be brought into full play and they will consciously lodge resolute struggles against violation of the law and actions against disciplines by government departments and civil servants. Great efforts should be made to educate the people in laws and regulations for keeping an honest and clean government and in ways of supervision, so as to help citizens acquire knowledge concerning the exercise of supervision. As a result, citizens can properly exercise supervision according to law and the quality and level of their supervision can be raised. Meanwhile, education should also be given to government workers to enhance their consciousness in actively keeping themselves under supervision of citizens and raise the general quality and level of citizen supervision.

Enforce strict supervision and examination so as to ensure the effective implementation of citizen supervision. “If there is a good law but it is not abided by, the law will be but an empty one.” Only when systems concerning citizen supervision are properly carried out, can the function of citizen supervision be brought to the full. One of the important functions of administrative supervision is to enhance supervision and examination so as to ensure the effective application of these systems. In checking if these measures have been actually taken, efforts should be made in solving actual problems. In solving problems, it needs courage to tackle the problem at the core and to expose the case to the full. It needs tough – handedness, not weak – heartedness. To tackle concrete problems it needs skill. We should choose cases of a general nature that occurs most

often, serious cases and cases that show an evil tendency. We should pursue the case to the very end until we get the final result. We should choose cases with key importance and cases with greater difficulties, and solve them in the process of supervision and examination. Only when we have made great efforts and done a good job, can we promote the effective implementation of the system of citizen supervision.

Pay attention to encouragement and protection and optimize the environment for citizen supervision. It needs a good social environment for citizens to exercise their right to supervise. To create such an environment, government supervision departments can achieve the purpose by chiefly perfecting two systems. The first is the citizen supervision rewarding system. Citizens whose supervision has brought about remarkable economic or social benefits should be rewarded, and their stories should be made widely known. In rewarding, attention should be paid to combine moral encouragement and material rewards, common rewards with high rewards. In this way, citizens' initiative can be brought into full play in participating supervision. The second system is to supply protection for citizen supervision. Government supervision departments should make proposals for making a *Law for Citizen Supervision* and related laws and regulations, and materialize and standardize the right for citizens to supervise as stipulated in the Constitution. In the *Law for Citizen Supervision*, not only the mature, status, target and procedures of citizen supervision should be clearly defined, but also the obligations for government supervision departments to take security and protective measures for citizens concerned, so that their personal rights, democratic rights and other legal rights should not be hindered or infringed upon.

Strengthen the force of punishment and ensure the full implementation of citizen supervision. It is an important function of the government supervision department to punish actions of hindering and infringing upon

citizen's right of supervision. We must strictly investigate and affix the responsibilities of units or individuals for refusing to apply the system of citizen supervision. Those units and individuals who have made vindictive attacks on citizens concerned must be duly punished; if they have brought about physical injury, damage of reputation or economic loss to citizens concerned, they must make proper compensation according to law; and those who have committed crimes must be sent to judicial departments for investigation of their criminal responsibility.

On the Impetus of Civil Supervision over Administrative Supervision

By Xiang Yang*

The main subject every country in the world is now facing is how to improve supervision over and restriction on the state administrative power. In the process of supervision and restriction, civil supervision and administrative supervision take their own responsibilities and coordination while having their focuses respectively and complementing each other. It is quite significant to intensify civil supervision so as to facilitate administrative supervision, to prevent the misplacement of administrative power from taking place, and establish an industrious, honest, pragmatic and efficient government.

(I)

Civil supervision and administrative supervision are essentially unanimous, in which "sovereignty of the people" is the basic principle of modern democracy. Entrusted by the public, the government is a civil agent and carries out social management on behalf of the public. Therefore, that citizens exercise supervision over the government is a natural outcome of the entrustment of their own rights, a fundamental restriction on power exertion and also an embodiment of political power of our people. Civil supervision is not only an important form of social supervision, but also the source and foundation of the supervision over the state administrative

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power. Substantially, citizens are entitled to supervise the government, including the administrative supervision as the internal supervision of the government, which is a manifestation of civil supervision over administrative power. After all, both the civil and the administrative supervision are the reflection of the people's will and the important means to vindicate the people's basic interests.

Civil supervision and administrative supervision are of unanimity in the aspect of supervisory object. The stipulations are explicitly made in the Constitution of the People's Republic of China as follows: The citizens of the People's Republic of China have their very rights to set forth their criticism and suggestions to any state organ or its personnel, and even put forward their appeals, charges or accusations to the authorities concerned against any state organ or its personnel having illegal conducts or dereliction of duty. For one thing, it is an important content of civil supervision that citizens exercise supervision over the administrative conducts of the state administrative organs and government employees. For another, the administrative supervision is the one exercised over the administrative conducts of the government offices, employees and the other personnel the government appoints, the essence of which is to supervise the exercise of administrative power. The two kinds of supervision are the two important forms of administrative supervision, in which the state organs and employees are the objects to be supervised.

The civil and administrative supervision are unanimous in the supervisory roles. By means of accusation letters, offense reports, reconsiderations about the improper administrative disciplinary penalties, administrative legal proceedings, press, public opinions etc., citizens can criticize and make suggestions to the state organs and employees for their illegal or improper acts in order to safeguard the citizens' own lawful rights and interests, to standardize the exercise of administrative power, to promote the

enforcement of administrative power according to law, to give a further impetus to the development of an honest government and an anti - corruption combat, and safeguard the long - time stability of our country. In all these respects, civil supervision plays a very crucial role. The administrative supervision, through supervision of government's honesty and efficiency, is to achieve the goal of anti - corruption, safeguard an honest government, ensure the smooth enforcement of government decrees, improve the administrative management, and increase the efficiency of administrative operations. The two kinds of supervision share the missions for the government employees to perform their duties honestly, observe disciplines and law, serve the people industriously, promote the administrative efficiency, and improve the administrative management and democracy, etc.

Civil supervision and administrative supervision are complementary to each other in the way of supervision. On the one hand, administrative supervision, as an important part of the state administrative management system, is a self - restraint mechanism and an internal supervision, and is also a special supervision of government offices. The means of such supervision is legal and its force is compulsory. On the other hand, civil supervision, as a form of supervision beyond the exercise of administrative power, is surveillance by the masses, usually conducted from the lower levels to the higher authorities. The means of such supervision is to put forth suggestions, opinions, criticism, or offense report, etc. Compared with administrative supervision, civil supervision has a wider scope, greater influence and more flexible means as to the surveillance to the government offices and their employees; however, civil supervision engenders its law force through administrative supervision.

From the exposition above, since civil supervision and administrative supervision are of unanimity in their essence, objects and roles, and of

complementary in their means, it is imperative to intensify civil supervision so as to increase the efficiency of administrative supervision. Therefore, the administrative supervisory agencies must pay heed to the roles of civil supervision, and regard it as an important principle to be followed in the tasks of administrative supervision.

(II)

Our country always attaches great importance to the roles of civil supervision. Shortly before the foundation of the People's Republic of China, Chairman Mao Tsetung aired the important view that a government dare not slack off only if the people are entitled to supervise the government and that the nation will not die out only if everyone shoulders their own responsibilities. In addition, the great man pointed out that democracy is what a nation relies on to jump out of the historical cycle from prosperity to declination. Since the establishment of our country, especially since the reform and opening to the outside world, China has set up and constantly improved the civil supervisory mechanism, and has given full play to the roles of civil supervision so as to keep our government from corrupting, guarantee the successful enforcement of government decrees, improve the administrative management and efficiency. The administrative supervisory agencies at all levels have also adopted every practical and efficient measure to promote the roles of civil supervision exercised over administrative supervision.

Writing accusation letters and offense reports is a popular way for citizens to perform their duty of supervision and make the most of the power of supervision. China adheres to it that citizens' writing of accusation letters and offense reports is a main channel for the supervisory agencies to observe the thinking, get to know the will of the people and get their admonishments accordingly. The system concerned has been estab-

lished and improved gradually so that the smooth channel of accusation letters and offense reports can be guaranteed for the citizens. Dealing with accusation letters and offense reports has already been an important everyday work for the supervisory agencies. The supervision departments or sections at all levels have now been a main link or "window" for the government to maintain connections with the masses. The cases found out through this channel and dealt with by the supervisory agencies of Sichuan Province account for 80% of all those investigated every year. The channel has now become the one to obtain the sources of violation of law and disciplines so that these cases can be dealt with by the supervisory agencies punctually, which plays a key role in promoting the development of honest government and the fight against corruption.

Making government affairs known to the public is an important measure to expand the channel of civil supervision and prevent abuse of administrative power. All these years, our province has brought the complete openness of government affairs into line with the overall layout of anti - corruption and search for the sources of corruption. To increase openness or transparency is to defend the people's rights of knowledge and supervision. As regards all the matters concerned with the people's interests and dealt with by the state organs at all levels, excluding those related to the state secrets, it is necessary, by a certain means, to make them known to the public or society, and accept conscientiously the supervision of the public. At present, 97% of the villages and towns and 61% of the counties in our province have widely put in force the openness of government affairs, so have the municipal, prefectural and provincial government offices. Administrative service centers and the like have been established in the province in combination with the reform of administrative check and approval system in order to carry out the "one - stop" or coordinated process service, joint check and approval system, fair operation

and standardized management. By implementing openness of government affairs, which starts with such key links as "personnel, finance and property", civil supervision has been intensified, the procedures of power practice standardized, the abuse of power for personal gains decreased, the work style of state organs become better, and the level of administrative services raised.

Both reconsideration about the improper administrative disciplinary penalties and administrative legal proceedings are two important procedures for citizens, by vindicating their own legal rights and interests, to supervise the exercise of administrative power and prevent or rectify unlawful or improper administrative conducts. In recent years, China has issued and put into practice the Law of Reconsiderations about the Improper Administrative Disciplinary Penalties and the Law of Administrative Legal Proceedings, and accordingly set up and perfected the systems related. Once citizens' legitimate rights and interests are infringed upon by the misconducts of administrative organs, they may apply to the higher authorities for reconsideration or take legal proceedings in court. Meanwhile, China has also issued the National Law of Compensation, established the compensation system as to the administrative infringement upon citizens' rights, and explicitly laid down in the form of national law the compensation responsibilities and measures for administrative infringement acts. The establishment of the two systems has made it possible that more and more people can defend their lawful rights and interests by means of law, and supervise and standardize the administrative conducts. In recent years, the scopes in regard to the application for administrative reconsideration and administrative legal proceedings have been widely expanded. As a result, the two systems have been playing an important role in rectifying administrative misconducts and preventing the abuse of power of state organs and the employees in the government.

As important forms of supervision, democratic deliberation, inquiry and hearing are the processes under which citizens can directly take part in the government affairs. In recent years, the provincial government has been adopting measures to encourage the democratic deliberation, inquiry and hearing, activate the citizens' participation into the democratic policy-making and management, and widely solicit opinions from the masses. Consequently, the intensity of citizens' participation in the deliberation and administration of government affairs has been greatly increased. Democratic deliberation refers to the process under which citizens are organized to assess the work of the government and its personnel, and evaluate the work style of the government departments, trades and professions. Besides the function of work assessment, opinions formed from this process will be regarded as valuable information on the basis of which government employees can be adequately examined and appointed to the proper positions. As for the complicated matters as well as the prices for water, electricity and gas, and communications and transportation and the like, which are involved in the public's immediate interests, the hearing system has been carried out so that citizens can fully express their wills and efficiently vindicate their own legitimate rights and interests. By all these means, the government agencies can directly hear the public's opinions, voices and demands through face - to - face contact, which promotes the development of honest and industrious government agencies, improves the work style, and increases the level of policy - making and the efficiency of administration.

Another important measure to exercise civil supervision is to expand citizens' supervisory right in selecting and adopting talents. In recent years, we have given great impetus to the reform of personnel system whose main content is expansion of democracy. As a result, citizens have got more and more rights of knowledge, participation, selection and su-

pervision in regard to selecting and adopting talents. At the grassroots democratic election has been practiced. Introduced into the selection and appointment of leading cadres at all levels are such systems as democratic recommendation, democratic assessment, testing and making the appointment known to the public. The criterion of such practice is whether or not the public are satisfied with or accept the candidate leading cadres. The appointment or promotion will fail so long as most people are not in favor of it. In this way, the work of selection and appointment is more open, democratic and standardized so that the consciousness of being public servants has been deeply rooted in the minds of government officials at all levels, and the development of public servant groups promoted as well.

The press is a bridge or tie to link the state organs with the public and a main channel for civil supervision. China always highly values the press and regards it as "the mouthpiece" of the people, and spares no efforts to support civil supervision over the work of state organs by means of the press. Moreover, our government also explicitly supports the press in exposing or disclosing administrative misconducts and corruption via standardized medium procedures. The press also serves to provide the information about the administrative work at regular intervals, and meanwhile accepts civil supervision. It is the press that intensifies the supervision over the state organs and their employees and promotes the development of honest and industrious state organs.

(III)

As a key link and foundation of the whole supervisory system of our country, civil supervision plays a crucial role in promoting the development of honest industrious state organs and administrative supervision; therefore, we must lay much stress on civil supervision and do the following accordingly.

Firstly, the environment of civil supervision must be optimized to guarantee the citizens' supervisory right. By strengthening awareness of the people to be supervised, they would like to accept civil supervision readily and consciously. Meanwhile, measures should be taken to promote a faster development of laws and regulations of civil supervision, and clear-cut stipulations about supervision should be explicitly made as for its status, power, compulsion, forms, procedure, responsibilities, rewards and punishments. Moreover, the mechanism guaranteeing and encouraging civil supervision should be established to ensure the security and stimulate the activeness of citizens' supervision. Secondly, channels of civil supervision should be dredged and expanded. The state organs concerned should lay much stress on dealing with citizens' accusation letters and offence reports, do their best to practice openness of government affairs, emphasize citizens' direct election, and increase the intensity of the public's participation in the deliberation and administration of state affairs. Thirdly, administrative supervision should be improved so as to give impetus to the development of civil supervision. The administrative supervisory agencies should adhere to the principle of depending on the masses, listening attentively to their opinions, and accepting the public's supervision willingly. The systems of accusation letters, offence reports and specially invited supervisors should be further improved. Opportunities must be seized to make a complete and comprehensive analysis of the information provided in the process of civil supervision in order to ascertain the focal or central tasks at different periods of time and lead the public concentrate their forceful supervision on the likely corruption. Through the various channels, citizens can safely and really enjoy and fulfill their rights in the respects of democratic election, policy-making, management and supervision.

It must be pointed out that civil supervision is not an isolated one

and that supervision of this kind and other forms of supervision must be closely connected with each other and get mutually promoted. As far as the actual situations of our country are concerned, civil supervision must be combined with the supervision from the state organs of power, the interior of the ruling party, the administration, law, the press, etc. Only in this way can these different types of supervision jointly take effect, form a combined force of supervision and constitute a perfect system of supervision and restriction.

Publicizing the Administrative Affairs: An Effective Approach to Strengthen Public Surveillance and Administrative Supervision

By Wu Honglin *

With the establishment and perfection of China's socialist market economic system, local government functions are being redefined incrementally and Chinese citizens' democratic consciousness and sense of participation in public affairs have been on the rise. In order to push forward the process of building a highly efficient and honest government, it is of great significance to publicizing the administrative affairs and find an approach to an organic integration of administrative supervision and public supervision.

1. Publicizing the administrative affairs: a prerequisite for better supervision

Administrative supervision is an important component and indispensable link of national public administration in China and an important manifestation of government supervisory mechanism. It is also a major means of supervision within state organs. But compared with supervision by state watchdogs, civil supervision is far more popular and ubiquitous.

The supervisory organs of Dafang County have started their probe into

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the issue since 1999. From the very beginning they have integrated organically the administrative supervision and public scrutiny, upholding the principle of administering government affairs with strict disciplines and fully exercising their supervisory functions while making greater efforts to publicize the administrative affairs, raise work efficiency and encourage public scrutiny. As the result, the administrative supervisory functions have been better performed and the process of building a highly efficient and honest government accelerated.

(1) Considering the actual situation of the county, working out a scientific plan to publicize the administrative affairs: a precondition for smooth progress.

Dafang County is located in northwestern Guizhou province, home of many ethnic groups including Han, Yi, Miao, Mongolian, Hui, Zhuang, Buyi, etc. Relying mainly on agriculture, the county is economically underdeveloped but endowed with ample mineral, tourism and biological resources. After the recent streamlining of local government, the county is now divided into 36 townships, 499 administrative villages and 53 neighborhood committees, forming a three - tier administrative hierarchy: the county, the townships and the villages (neighborhood committees). There are 29 government functionaries at the county level, 145 at township level and some necessary administrative branches at village level. By the end of 2001, the total population of the county has reached 947,364.

In view of the county's underdeveloped socioeconomic reality and the continuous quality improvement of local citizens, the Supervisory Department carried out a poll among the citizens trying to gain a relatively complete picture of the local society and public affairs. Based on the collected information, the plan regarding scope, content, procedure and methodology for implementation of making public the administration of government was worked out, laying sound foundation for smooth proceeding of the real

work.

✓ (2) **Bringing into full play the role of administrative supervisory organs.**

Throughout the process, the administrative supervisory organs have tried to give full play to their own functions and have done a good job in their collaboration with other departments concerned in light of their own conditions. Taking into consideration of the collected information from the poll, they focused their efforts on hot issues such as processing of applications for house building, new business application, license registration and allocation of capitals for poverty elimination. They tried to do a good job in management transparency and standardizing work procedures of government offices while trying to improve their performance in basic administrative management. They also endeavored to raise the consciousness of civil servant and the sense of service among the employes and managed to establish an operation procedure, and a system for performance supervision and appraisal. As first step, the content, methodology and procedure to make public the administration of government were defined. And service directly relating to the citizens' interest was categorized into 7 groups, e.g. major decision - making, economic activities, sensitive issues, political affairs, office regulations, incidental affairs, civil servants' self - discipline and 31 items under the groups. Those related service items, legal base, work procedures, related standards, time limit, related rules; channels for complaints were all made public to the citizens.

✓ (3) **Maintaining close ties between government and citizens, pursuing efficient and honest government and accelerating socioeconomic development and stability while endeavoring to produce more tangible effects.**

Throughout the whole process, Dafang's drive of making public the

administration of government has yielded good results. Their prime objectives are to speed up the county's socioeconomic development and stability, to maintain close ties between government and citizens, and to build a diligent and honest government. Simply speaking, the good results include six visible changes and five striking improvements.

Six visible changes are: better work style among the civil servants at county and township levels; higher efficiency in government offices; citizens' stronger awareness of participation in public administration; closer ties between local governments and citizens; higher citizens' satisfaction rate at government service, for example, the rate of satisfaction at observance of discipline by civil servants went up from 80% before making public the administration of government drive to 93% right now; and civil servants are better qualified with higher sense of service as a result of reinforced administrative supervision.

The five striking improvements are: striking improvement in public administration; striking improvement in building honest government, for example, cases dealt with by the county supervisory department decreased from 152 in 1998 to 53 in 2001, a drop of 65%; more progress has been made in strengthening democracy and encouraging political participation; better performance in carrying out administrative supervisory functions; and striking headways made in socioeconomic development. One more example, the county's GDP rose from 1.28 billion RMB in 1998 to 1.46 billion RMB in 2001, a growth of 16%.

What should be pointed out is that making public the administration of government has helped improve implementation of administrative supervision considerably. Judging by its contents and approaches, they have found their start juncture to carry out integration of both administrative and public supervision in Dafang County. The realization of effective citizens supervision has upgraded means of administrative supervision, rein-

forced government functions and created new channels for implementation of administrative supervision. On the other hand, putting government activities under public supervision through transparent public administration, citizens now enjoy more freedom both in daily life and production activities.

2. Making public the administrative affairs conducive to public surveillance and smooth performance of administrative supervision

The experience of Dafang County has shown that making public administration of government is a direct, effective, popular and easy – to – use approach to democracy. The practice is also conducive to the improvement and perfection of China's administrative supervision mechanism. Through the case study of Dafang experience, we have learnt that making public the administration of government can be helpful to public supervision and better performance of administrative supervision.

(1) An important approach to strengthen democracy and encourage democratic participation.

The purpose of strengthening democracy and encouraging democratic participation is to ensure citizens' legal rights and to make sure that citizens are the real masters of their own country by way of free information flow, democratic participation and public supervision. In the economically underdeveloped Dafang County, making public the administration of government was introduced as a breakthrough, and government agencies at county and township levels made their managerial activities public in order to encourage citizens' participation in and democratic supervision over economic, political and community affairs at local level. Thanks to the efforts made in this respect, citizens' awareness of participation and their quality have been further enhanced, and through the introduction of

democratic management and democratic decision making, the county has taken a step forward towards strengthening democracy and encouraging democratic participation in Dafang County.

(2) An important measure to perform official duties and rule the state according to law.

Managing state affairs according to law is a basic means to ensure the nation's long-term political stability. An indispensable component of running the state affairs according to law is to perform official duties according to law. The crucial point is that the power to administer must be subject to law, must be subject to the supervision by the subjects of rights stipulated by law, especially the citizens; and illegal practice or wrong doings must be supervised and rectified by way of standardizing government activities and making sure the conduct of government agencies are in conformity with law. Through the introduction of making public the administration of government, conduct of government agencies at county and township levels were clearly redefined according to law in Dafang, powers now have become duties and responsibilities, and the exercise of power now has been put under supervision of the public. Civil servants have now realized that they have to raise their awareness of ruling by law and running public affairs according to law within the county bureaucracy has been further enhanced. It is another step forward towards the realization of ruling by law.

(3) An important guarantee for better work style, closer government and citizens relations and further socioeconomic development and political stability.

At present, one element that affects government-citizens relations and socio-economic development and stability is the fact that the administrative information are less accessible to ordinary citizens, and decision-making is neither transparent nor adequately supervised. The practice in

Dafang indicates that making government activities public can effectively help free flow of information between government agencies and the citizens, facilitate more transparent decision - making, encourage government agencies and civil servants to keep abreast with the changing situation and raise their sense of service. And it is also helpful to improve the way they work and their work style. It is believed that doing a good job in making public the administration of government can help government agencies run public affairs in an open, fair and just manner and raise their work efficiency, establish a closer relationship between government and the citizens; in the end, constructive to the healthy development of socioeconomy.

(4) A strategic measure to raise the efficiency of administrative supervision so as to root out corruption.

The practice in Dafang County shows that making public the administration of government is an effective means for the supervisory organs to perform educational, protective, supervisory and punitive functions among government agencies and civil servants. To standardize conduct of government agencies and civil servants with law, disciplines and regulations, to minimize irregularities in carrying out official duties and to place power under effective supervision are basic measures to prevent abuse of power and corruption. By moving the frontline of supervision forward and formulating regulations which restrain power and operation at the source of corruption can open channels for wide range supervision by the public, and prepare the ground for effective performance of duties by administrative supervisory organs.

3. Pushing forward standardization and systematization of making public the administration of government

(1) Focusing on system establishment, more efforts should be

made to make public the administration of government and earnestly carry forward redefinition of government functions.

The late Chinese Leader Deng Xiaoping pointed out: "To eliminate abuse of power, we have to tackle the issue of mentality and also the issue of developing new system." Comparatively speaking, the issue of system is more fundamental and influential and a good system lasts longer term. Introduction of making public the administration of government is only one means. It is better to start the practice at lower administrative levels as county and township because it will be constructive to effective implementation of administrative decrees along the power ladder, to serve the grass-roots and create more benefit for citizens. On the other hand, it is far from enough only to introduce making public the administration of government at county and township levels. We have to make public the administration of government at higher levels and in larger administrative regions. Priority should be given to the reform of government functions and key content of the reform should include standardization of decision-making and use of power, with the support of reforms in laws, regulations, policies and coupling systems and measures so as to carry forward the introduction of transparent public management and to reap greater returns.

(2) Reinforcing supervisory functions in order to bring into full play the safeguarding role of administrative supervision.

Administrative supervision and making public the administration of government complements each other. We must endeavor to bring into full play the safeguarding role of administrative supervision according to Law on Administrative Supervision. First, regulations and rules must be formulated in order to regulate the performance of supervision. By means of setting up regulations and in collaboration with departments concerned in developing their own internal supervisory regulations so that administrative supervision organs can help government agencies and civil servants do a

better work in carrying out official duties according to law. Second, through their organizational and coordinated work, supervisory organs can act as bridge and communicator between different government agencies, and bring forth initiatives among government departments, institutions and citizens in their collaboration with each other in order to improve administrative management. Third, by investigation into cases of law and rule breaches and rectification of wrong doings, administrative supervision organs can push government offices and civil servants to perform their duty properly and honestly. Fourthly, by way of monitoring the performance of the established rules, specific suggestions can be raised to departments or institutions concerned and measures can be taken to wipe out obstacles preventing government offices from performing their duty efficiently and raise efficiency. Fifth, more efforts have to be made to raise the quality of administrative supervision organs and their functionaries. The comprehensive quality and qualification of supervisory officials have to be continuously improved, working method should be upgraded and efficiency elevated.

◀(3) Further cultivating ethical, cultural and professional quality of civil servants.

In order to make the administration of government a standardized practice and facilitate its development into a system, we have to adapt to the changing situation and raise ethical quality of civil servants through intensified education. First, positive efforts must be focused on inspiring civil servants with correct views on ideal, belief and professional ethics. Civil servants should also have knowledge of law, correct value and correct outlook on happiness and power. Secondly, we should also do a good job in lift cultural quality and professional qualification of official functionaries, guarding against irregularities in their official conduct and raising their ability of self - discipline, and making sure they will remain honest and diligent in their public administration work.

The Principle of Civil Supervision and Its Practice in Yunnan Province

By Yang Jianjia *

Civil supervision means that citizens, in accordance with the constitution of their country, supervise administrative organs and their personnel to ensure that disciplines and laws are being observed. It is a right that citizens enjoy. The principle of civil supervision means the rule or standard that should be followed in civil supervision. For many years, Yunnan Province has attached paramount importance to the application of this principle and has explored a number of valuable approaches that are playing a significant role in the deep - going campaign of anti - corruption and promotion of honest administration.

I . The principle of equality must be upheld in civil supervision .

It stands to reason that civil supervision should embody the demand for equality for it is an effectual and important channel through which the government contacts the masses and gets acquainted with circumstances as well as a democratic right that people at large exercise to supervise the government and its personnel. The principle of equality consists of three respects. a) The equality of human dignity. The only distinction between citizens, and between the masses and cadres, if any, is of division of job rather than of such feudal and patriarchal distinctions as nobility and per-

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sonal bondage. b) The equality of status. Any citizen enjoys the right to supervise other citizens and having the obligation to be supervised. There is no such special citizen who is entitled not to be supervised while supervising others. c) The equality of handling. Whoever he is, a common citizen or a government functionary, will without exception observe laws and regulations. Hence no treatment will vary with position, contribution and service time. These are the characteristics of stability, unity and objectivity in supervision that civil supervision must follow.

Over the past few years, we have all along persisted in and improved civil supervision, valuing it as a significant measure for the country to maintain a long-term order and stability by consolidating its state power. For reinforcement of civil supervision, the Supervision Bureau of Yunnan Province has a deputy director from non-Communist party. The same is true in the Supervision Bureaus of the prefectures of Kunming, Qujing, Baoshan, Zhaotong, etc. This is a positive practice uniting people from all walks of life into an important strength to supervise administrative activities. Drafting non-Communist cadres into the government organs for leadership is a significant move in stepping up the construction of democracy. And satisfactory achievements have been scored through active and sincere cooperation with these cadres thanks to the fact that we have political trust in them, give them a free hand, conduct candid communication of ideas, have mutual care for life.

II . The principle of seeking truth from facts must be upheld in civil supervision.

Seeking truth from facts is a cardinal principle that applies to all activities of the Party and the government. As civil supervision primarily functions as an approach to unmask and make public in time the violations of law and discipline in the administrative organs and their working per-

sonnel. The supervisor, as a requirement, must call a spade rather than distort facts or even make up stories. Considering that the circumstances made known by extensive civil supervision are complex, unavoidably some may not dovetail with the true pictures. Therefore, emphasis should be laid on evidence, investigation and facts for a sound handling of law – and-discipline breakers. Only by adhering to the principle of seeking truth from facts can civil supervision itself be correct, effective and authoritative. This gives expression to the positive role of civil supervision in guarding against and rectifying the violations of law and discipline, and in pressing cadres and general public to observe disciplines and obey laws.

Yunnan Province values the principle of seeking truth from facts in civil supervision, and has successively established and perfected several relevant systems. The first is friendly contact between leaders of the Party and the government, and the democratic parties, non – Party personages, ethnic and religious personages and representatives from non – state owned enterprises. The second is circulation of severe problems and key jobs. The third is hearings on significant decisions. And the fourth is relevant meeting attendance by non – Party personages who do not vote. These systems have been publicized in an earnest manner and three moves have been taken to guarantee that they are supervised and implemented. The first one is the provision of offence reporting boxes and telephone numbers which bring into the petition work the opinions of non – Party personages about the work of supervision. The implementation of the systems is reported in form of petition memo. The second is about the holding of irregularly scheduled symposia. It is a routine that each year forums for special supervisors and discussions attended by representatives of non – state owned enterprises are convened. These meetings, as a rule, require the personal presence of the leaders from the Supervision Department to accept with an open mind the opinions of non – Party personages, making

sure that the systems are being carried out. The third is the earnest work about special supervisors. Over the past few years, the Supervision Department of Yunnan Province has engaged three consecutive groups of sixty people as special supervisors, forty – five of whom are non – Party personages. Each year they are invited to attend such provincial meetings as the Plenary Session of the Commission for Inspecting Discipline, the conference on discipline supervision and the meeting on incorrupt government. At these meetings, they are free to participate in administration and discussion of state affairs, and their opinions and suggestions on the investigation and settlement participated by representatives from the masses of cases reported by petition letters and hot spots of society are conscientiously listened to.

III . The principle of openness must be upheld in civil supervision .

Mystery and blockade must be discarded for they are as often as not the shelter from violations of law and discipline. First, any activities, on condition that they do not involve the secrets of the Party and the State, must be above board for surveillance by the masses. Second, the process of supervision itself must be open. All cases of law – and – discipline breakers must be unmasked and by appropriate means made public. Publicity must be given to all codes of conduct of administrative organs and their functionaries, different kinds of regulations and systems that supervision complies with, the circumstances of supervision, etc. Third, the results of handling law – and – discipline breakers must be announced. Only by pursuing the principle of openness can the political fervor of the masses be aroused, and their initiative in supervision be mobilized to the fullest extent. Meanwhile conditions should be provided for citizens to participate in supervision so as to ensure that all administrative activities

are under supervision and the very activity of supervision is being supervised.

No openness, no supervision. In this regard, Yunnan Province has given sufficient expression to the principle of openness in civil supervision in the formulation and improvement of laws, regulations and systems for civil supervision. First is to specify, through building and perfecting the mechanism of civil supervision, the conducts of administrative personnel, and particularly those of leading cadres in order to guard against and lessen the emergence and infestation of corruption. Second, building and perfecting of the mechanism of civil supervision further immunizes civil supervision from outside interference, which, as a way to strengthen social supervision, enables citizens to perform the duty of supervision in accordance with the laws. Third, the building and perfecting of the mechanism of civil supervision provides the masses with legal weapons for them to fulfill effectively the right to participate in supervision and play the role of an acute sword to contain corruption. In recent years, in order to have the masses know the circumstances of the administrative organs and their working personnel, we have focused on laying down a good few regulations such as "Stipulations for Honesty and Self - Discipline of Leading cadres of Yunnan Province," the reporting system of leading cadres' income, the reporting system of the assets of leading cadres' families, and we have been actively introducing the publication system of government affairs, factory affairs and administrative village affairs, etc. These regulations have institutionalized the will of the masses, and have further incarnated and ensured the right of the masses to supervise effectively.

Handling in real earnest the motions from the Chinese People's Political Consultative Conference is also a significant move that brings into play civil supervision and hence embodies the principle of openness. For this, we have had three points stipulated. a) Strengthen administration and

treat as an important matter the handling of motions; b) Emphasize result and manage the handling of motions as practical matters; c) Improve approaches and be meticulous in handling motions. It is a practice that meetings are presided by the head of the Department for two successive special reviews of the handling of each motion, and that special functionaries will be assigned to complete, within the time limit, the handling with a formal reply provided. Conscientious attention has been directed to "the rate of personal consultation, the rate of solution, and the rate of satisfaction" that guarantees the quality of the handling of motions. Over the past several years, forty - eight motions from the CPPCC have been handled, nine of which are about the style of work of the administrative organs and functionaries, eleven of which refer to functionaries' violations of law and discipline, and twenty - eight of which are related to hot spots of society. Each motion has gone through personal consultation and has been solved satisfactorily. Solving problems through handling motions has helped us establish closer ties with the democratic parties which facilitates the struggle against corruption and the promotion of honest administration.

IV . The principle of participation by the masses must be upheld in civil supervision .

The principles of equality and openness in civil supervision should surely require the participation of the masses. By the principle of equality, common people have the right to take part in civil supervision and the acknowledgement of the principle of openness means the possibility of their participation. The participation of the masses in civil supervision is in fact from a viewpoint of the historical materialism, which trusts and depends on common people. Its basic requirements are to activate all the cadres and common people; and still further, in certain sphere and to certain extent and through proper ways, to take in all possible people,

thus making civil supervision mass - based .

Democratic appraisal in different professions is an effective form in civil supervision, best demonstrating the principle of the masses. Since Yunnan Province took to democratic appraisal in different professions three years ago, a great many evaluators, over 60% of whom from democratic parties, non - Parties and people's groups, were invited and have done important contributions to the evaluation work. People from democratic parties were also invited to join in the inspection of the work of relieving the burdens of the farmers and enterprises, of eliminating "three malpractices" on roads and unreasonable charges in preliminary and middle schools so that they could play an active part in the governmental administration. During the course of the inspection, they put forward a number of pertinent suggestions and ideas that could be manipulated. Some of these suggestions and ideas have been treasured and adopted by the departments concerned, redressing the settlement of the above mentioned unreasonable things. During the past few years, people from the democratic parties, non - Parties and people's groups have been 15 times in the inspection of the work of relieving the burdens of farmers, 10 times the work of relieving the burdens of enterprises, 5 times the work of eliminating malpractices on roads and 4 times the work of eliminating unreasonable charges in preliminary and middle schools, amounting to a total number of more than 80 people and times, which greatly bettered the provincial disciplinary inspection and supervision. Meanwhile, the work of organizing specially invited inspectors in special inspections and democratic evaluations made it easier for the democratic parties to participate in the governmental administrations and to enhance their self construction. The work was, therefore, highly valued by the democratic parties, people's groups and those from different walks of life.

For many years, Yunnan Province has stuck to reception of com-

plaining letters and visits by ordinary people and considered it a concrete channel of civil supervision. Only in last year, the disciplinary inspection and supervision offices of different levels in the province received and resolved 33,170 complaining letters, telephone calls or visits. Yunnan Provincial Appealing Centre received 58 appeals and resolved 51, while Yunnan Provincial Appealing Centre for Foreign Businessmen received 22 appeals and resolved 18. Since the second half of the year 2000, stipulated by the Yunnan Provincial Government, the 14 departments directly under it simultaneously launched the "reception day" activity. One 25th of each month, the director generals of all the departments welcome the visits by common people and timely solve the problems frequently reported. Promoted by the departments directly under the provincial government, the "reception day" activity spread to the prefecture level. A good atmosphere of civil supervision has come into being in the province.

To sum up, the key sector in taking advantage of civil supervision is to grasp and apply its principles, which are of vital significance in implementing the administrative function of supervision and normalizing the administrative actions.

On Consolidating Administrative Supervision and Citizens' Supervision

By Ci Ren Bu Luo *

According to provisions of the Law of Administrative Supervision, administrative supervision is an integral part of China's administrative management and the functionary for the supervision is an organ within the people's government that is responsible for supervising administrative management. The supervision is targeted at governmental departments and public servants; the content of the supervision mainly include the acts by the public servants in exercising administrative power to manage national affairs; the objective of the supervision is to ensure the smooth implementation of governmental decrees, safeguarding administrative discipline, facilitate anti - corruption drive and improve administrative management and efficiency; the supervision is conducted through the process that the supervision departments observe their duty of supervision, exercise their power of supervision and conduct supervising activities.

Citizens' supervision is referred to citizens' self - conscious behavior in supervising and checking the administrative acts by governmental departments and their staff in order to safeguarding their own legitimate rights. With social progress and the improvement of public awareness and knowledge, more and more citizens realize that in order to safeguard their own legitimate rights, it is not enough to merely rely on the self - supervision among governmental departments, citizens have to comprehensively

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participate in supervision. In recent years, the so - called “Information Act” campaign has been popular among many countries. The campaign, in essence, is to increase the transparency of administrative operation by governmental departments. The emergence of such campaign has elevated the administrative management and supervision into a higher level.

It's known to all that the administrative power is usually referred to the power of governmental departments to implement laws and governmental regulations as well as to conduct administrative management, which is an integral part of national power. The administrative power features duality in nature: on the one hand, it plays a positive and active role in maintaining social order, expanding public interests and protecting the legitimate rights of citizens, legal persons and other organizations; on the other, it is a compulsory force disregarding the will of the target and it could play a negative or even destructive role. Therefore, it takes no risk to say that the administrative power has two faces, playing facilitating role on the one hand and generating negative effects if not properly exercised on the other. It's dangerous to count on the morality and awareness of those who execute the administrative power. As a matter of fact, power without supervision would breed corruption. The administrative supervision has thus become all the more important.

The basic duty of the supervision departments is to supervise and check whether the target obey discipline and abide by laws or not, to find out and expose the faults and wrongdoings of the targets and to punish the administrative discipline violators. However, finding out faults and punishing itself is not the objective. The objective is to improve the morality and awareness of the violators, to help them analyze the objective and subjective reasons for committing the malpractice, to study the countermeasures of correcting wrong - doings and to improve administrative management and efficiency, facilitate anti - corruption drive and ensure

smooth implementation of governmental decrees. On this point, the task of the supervision departments coincides with citizens' requirements on governmental departments. Therefore, China attaches importance to citizens' participation and support in administrative supervision.

Citizens are the objective all administrative organs work for and citizens are fully aware of the work of these organs and their staff. The malpractice of the governmental departments and their staff, even if some of them are covert, would be fully detected by the general public. Therefore, it is vital to get to know the viewpoints of citizens on governmental departments and public servants through various channels. It is also important to handle and investigate citizens' complaints and disclosing of malpractice of governmental departments and public servants. In short, it is of vital necessity to integrate administrative supervision with citizens' supervision. In China, citizens have the right to criticize and supervise governmental departments and public servants. They also have the political duty and enthusiasm to fight against various corruptive phenomenon, such as embezzlement, bribery, seeking personal interests, dereliction of duty and breach of duty. The supervision departments and citizens share the same objective in this regard. Therefore, the supervision departments can actively support and protect the enthusiasm of citizens in supervising governmental departments and public servants. They can also comprehensively invite citizens to participate in the supervision and the drive to fight corruption. In this respect, citizens can do a lot of work, such as providing clues for supervision departments in handling cases, participating in supervising law implementation, correcting malpractice and participating in the drive of opening the management affairs in governmental departments, factories and villages. Recently, residents' assessment of governmental departments has been popular in many cities and this has become a new form of supervision. Under the coordination and support of supervi-

sion departments, the campaign has become fruitful. For instance, a campaign called "ten thousand people assessing governmental departments" was launched last year in Nanjing, capital city of east China's Jiangsu Province. During the campaign, city residents graded the work of all governmental departments. The supervision departments, however, joint hands with human resource departments to reshape the five departments that were listed at the bottom. The leaders of the five departments were removed from their post and the successors have to put forward countermeasures in line with the criticism and proposals of the general public, so as to substantially improving the working style within the given time limit. Later, the supervision departments and representatives of local residents checked the reformation of relevant departments. The campaign has launched a move of active reformation among all governmental departments in Nanjing because all public servants had felt the danger of being listed at the bottom. According to recent report of the CCTV, the five departments listed at the bottom have accelerated the process of reformation and the working style and moral of the staff has seen positive changes. All in all, the role and function of citizens' supervision has been fully demonstrated in the campaign.

After years of practice, a number of practices and experience have been drawn in citizens' participation in supervising governmental departments, such as participating in supervising law implementation, correcting malpractice and participating in the drive of opening the management affairs in governmental departments, factories and villages. Of above-mentioned forms of supervision, each has its own characteristics and peculiar function. In addition, supervision departments in China have established a system of special supervisor and a system of receiving complaints. The two systems have ensured the intimate contact with the general public and make supervision departments get smooth access to cases and detailed

information, which has also laid a solid foundation for supervision departments to do their job.

The system of special supervisor is an effective method of integrating administrative supervision and citizens' supervision and it is also an important measure to perfect the supervision mechanism and strengthen the anti - corruption drive. According to the system, the supervision departments invite members of various parties, scholars, labor models and celebrities from various organizations, enterprises and functionaries as special supervisors, whose duty is to find out problems when the governmental departments and public servants implement laws, regulations and decrees and report them to the supervision departments, to pass on complaints, appeals and disclosing from the general public on the malpractice of above - mentioned departments and public servants, to participate in studying and drafting regulations on supervision and providing proposals, to participate in supervising law implementation and investigation of cases, to report proposals and demands of the general public to the supervision departments. To date, there are some 20,000 special supervisors across the country, who are participating in administrative supervision and playing a active role in the anti - corruption drive.

To sum up, the administrative supervision and citizens' supervision share the same objective in China and they can consolidate each other. The reason is that the administrative supervision in China represents the fundamental interests of the general public, which is exactly the starting point and supreme goal of the administrative supervision in China. The administrative supervision wins the trust and support of the general public and it is the basis on which we have yielded fruits one after another in the anti - corruption drive.

Measures to Enhance Civil Surveillance after China's Entry into WTO

By Chen Youde*

Civil surveillance refers to the citizens' exercise of democratic rights and their rights to participate in the national management in accordance with the law and to supervise the activities of the national agencies and their employees. It is an exercise of the fundamental rights of the citizens given by the constitution and an important embodiment of the socialist democracy. Together with party supervision, administrative supervision and legal supervision, civil surveillance constitutes the supervision system of the socialism with Chinese characters.

PART ONE

In China, compared with other means of supervision, civil surveillance has its advantages and features. As to the position of civil surveillance, it plays a very important role in the national political life of citizens and cannot be replaced by any other supervision, because according to the nature of our socialist country, the power of the country belongs to the people. In addition, citizens' right of supervision is given by the constitution, so it is guaranteed by the law. By exercising this right, the people try to ensure the activities of the national agencies and their employees in conformity with the people's will, so as to embody the nature of our country that people are the masters of their own affairs. The forms of citizens'

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supervision vary greatly and the sphere of supervision is also very wide, so the content of supervision is more objective and reliable.

As to the practice of civil surveillance, since the reform and open policies were adopted, in the struggle for honesty and against corruption, the administrative supervision departments at different levels in Shaanxi province have made great achievements in the building of democratic politics emphasizing civil surveillance and in the perfection of the mechanism of civil surveillance. These departments are also seeking effective ways to enhance civil surveillance. First, in the selection of cadres, polls, democratic recommendation, public selection, publication before appointment and other rules and regulations have already been established. In recent years, our province has selected 18 deputy directors of the provincial departments in a nation - wide degree and has selected 272 sections chiefs and 1398 sub - section chiefs publicly from the society. Altogether, 93% of the counties and districts in the 10 municipalities of our province have practiced the system of publication of leading cadres before their appointments and 758 section chiefs have been published before their appointments. By means of citizens' supervision, some cadres not worth their positions have been moved and the system of public selection and competition for vacancies has become the main form in the decision of the future of the governmental employees. Second, public administration, reforms of administrative approval system, centralized accounting management and other systems have already been set up and the administrative hall has been built. By the end of last year, 95% of the administrative divisions have carried out the system of public administration and the province, the municipalities and 40% of the counties and districts have built the administrative halls, where all the administrative formalities can be completed. All the counties and the administrative divisions of above levels have carried out the system of centralized accounting. The provincial depart-

ments have reduced the issues needing administrative approval from 1475 to 818, with a reduction rate of 44.54%. Third, in the administrative law enforcement and service, the publicity of law enforcement, the service acceptance and the democratic judgment system have been set up. In the last 10 years, more than 20 administrative law enforcing departments and public services have implemented the publicity of law enforcement and the service acceptance systems. In the province, the municipalities and counties, over 38000 people have been invited to appraise the administrative activities and about 1.2 million people from all circles have taken part in this appraisal. Fourth, in the administrative supervision, letter appeal system, offense reporting system, specially invited supervisor system and administrative review have been put into effect. In recent years, the people have impeached clues of over 80% of all the cases settled by the supervisory organs. The provincial department of supervision has invited 93 specially invited supervisors to directly take part in the administrative supervision work. Fifth, in the allocation of public resources, public bidding system and a visible market have been established in accordance with the market mechanism. Shaanxi province has made new progress in the field such as project construction, purchase and sale of medicines and medical equipment, governmental purchase and the auction of business land. In 1995, Shaanxi had its project bidding system, which was among the first to make use of this system. Both the province and the municipalities have established visible markets and 1035 projects are involved in these markets with the total amount of 2.25 billion RMB yuan. The average money reduction rate is about 10.3%. 160 hospitals have taken part in the joint invitation of bidding of medicines and the reduction rate of the prices of medicine is about 14% ~ 36%. The scale of the governmental purchase in Shaanxi involves 0.74 billion RMB yuan and the average reduction rate is about 10%. With these measures, the right to

learn the truth, the right of participation and the right of supervision have been implemented and the scope of citizens' supervision has been widened and deepened. This practice suggests that supervision play a great role in the progress of democratic politics, the enhancement of the honesty of administrative organs, the stability of society and the economic development.

PART TWO

With China's entry into WTO and the gradual perfection of socialist market economy, civil surveillance plays a more and more role. The entry into WTO has great influence not only on the economy and trade, but also on the political and social life of our country. WTO follows the principle of fair play, the principle of legal economy, the principle of publicity and the principle of nondiscrimination. Most of the principles are intended to regulate the behavior of government. These principles will impel the government to change its functions and ways to administrate. The legalization, standardization, rationalization and publicity of administration will put new force into civil surveillance and find new ways of administration.

1. In the motivation of supervision, citizens' enthusiasm to supervision is ever increasing. The entry into WTO will speed up our market economy. As the subject of market, people participate in the market competition and will require more in the field such as standard administration, administration according to the law, honesty and efficiency and high-level service. People are playing more active role in supervision in order to safeguard their own rights and interests.

2. In the sphere of supervision, the content of supervision is broader than ever before. After our entry into WTO, the process of the publicity of administration is speeding up. In the past, many of the activities of the government lacked publicity, especially in the institution and enforcement

of policies and decisions concerned with the interests of the people. The entry into WTO will promote the publicity of administration and safeguard people's right to learn the truth, the right of participation and the right of supervision. People will supervise the establishment of governmental agencies, personal administration, extent of power and responsibility of the government, the procedure of administration and other process of administration.

3. Information engineering and network have provided some scientific means of supervision. With the coming of information age and the development of network, people can put forward suggestions, make comments, and take part in the decision - making of the government through network. The "electronic government" has provided new ways to publish information and government announcements and to give consultation in legal affairs. This measure contributes much to the scope of people's right to learn the truth and increases the possibility of civil surveillance.

4. Foreign experience has brought some new approaches of supervision into use. The entry into WTO means the strengthening of open policies, and more foreign experience can be used in civil surveillance. We may gain a lot from some effective means of administration in foreign countries, such as inquiry and hearing. On the basis of political stability, the foreign experience will enrich the content and forms of civil surveillance.

5. The speediness of the legalization has provided sufficient safeguards for the citizens' supervision. The changes of administrative structure and economic structure brought by the entry into WTO require speeding up the legalization of citizens' supervision. It is hard to exercise supervision without legal guarantee. Laws are needed to specify the object, content and scope of civil surveillance so as to regulate the supervision activities.

PART THREE

With the favorable opportunity of entry into WTO, a well - structured civil surveillance mechanism must be set up to make full use of civil surveillance and safeguard citizens' right of supervision. To set up such a mechanism, we should take the steps as follows:

1. The civil surveillance network must be perfected in order to clear away the barriers in the way of civil surveillance. First, we should stick to and perfect the effective means of supervision, such as letter appeal, offense reporting, specially invited supervisor and administrative review. On the basis of our experience, we should continue to perfect these means and specify the responsibility and procedure of supervision. Second, we must make full use of information and network technology to promote "electronic democracy". We should build an "electronic government" to connect the government and the people with "electronic bridge". Electronic methods such as electronic poll, network discussion and electronic voting must be taken to help the government to get the knowledge of the people's will and provide reliable bases for decision - making. All the laws and regulations must be published on the net to provide legal basis for civil surveillance. Second, besides the villagers conference and employees conference, we should set up other civil surveillance organizations according to the scope and objectives of supervision, such as legal aid center for women, volunteer organization for the interests of the disabled. In addition, we should encourage setting up some citizens' self - government organization to take advantage of group supervision.

2. We should set up hearing system to bring civil surveillance into the decision - making, administration and service of the government. Generally speaking, it is hard to exercise civil surveillance, so effective means of supervision such as hearing must be taken to safeguard the effect

of this supervision. Hearing is a system that the citizens, representatives of citizens or the citizens' supervision organizations can inquire the government. In practice, great attention must be paid to the following two aspects. (1) Specific procedure and discipline must be made to specify that under what occasions hearing can be made, which government agency will hold the hearing and what kind of responsibility the government agency will take if it fails to operate correctly. (2) The content of the hearing must also be specified and it must include the discussion before important decision - making of both the central and the local government, the correction of administrative activities that cause bad social effects and so on. Hearing is a new thing in China and everything is in its first step, so some experiments are needed to get enough experience.

3. We should improve the present ways of supervision and practise inspection system. According to the principle of the unity of rights and responsibility, inspection groups must be organized to carry out the inspection supervision. Through visiting, the inspection groups will collect the wills and suggestions of the people and summarize these materials and refer to the government agencies concerned. At the same time, the groups also convey the government decisions to the people. This kind of inspection group is just a bridge that connects the government and the people. By means of this system, a new relationship between the people and the government is established that the people are the master and supervisor while the government is the servant and the supervised.

4. We should set up a safeguard system to ensure the operation and safety of the civil surveillance. Citizens' supervision needs both legal protection and legal implementation, therefore laws must be made to specify the legal status and legal responsibility of civil surveillance, the object of supervision, the content and scope of supervision. Offense reporting must also be regulated to specify the rights and obligations of the offense - re-

porter and protect the offense – reporter with law. Through legislation, the government behavior will be regulated and the citizens' right to criticize, right to suggest, right to appeal and right to impeach will be assured.

5. We must set up an inspiring system to encourage the citizens to take part in the supervision. The government must take political, economic and spiritual measures, such as praise, award and encouragement to inspire citizens' willingness to supervise. For example, we can set up a foundation to give awards to the offense – reporter and to encourage the citizens to put forward their suggestions and advice. Meanwhile, we can also set up an insurance system to give economic compensation to the people who suffer from vindictive attacks due to the exercise of supervision. We must also publicly praise the people who have made great achievements in the supervision.

6. We should change indirect supervision to direct supervision by means of appraisal system. The entry into WTO requires the government agencies to make public their behavior, which creates favorable conditions for the citizens' direct supervision. When appraising the performance of the government and its employees, citizens' supervision organizations and citizens' representatives from different social strata should take part in this process. The supervisors will rate publicly the government employee's performance in morality, ability, diligence, achievements and honesty. In addition to democratic appraisal, citizens' appraisal should also be taken into account when promoting the leading cadres.

A Survey of and Reflection on Public Surveillance

By Huang Yichun *

In March, 2001 and January, 2002, a special research and survey with questionnaire of 10,000 subjects were conducted by the Supervision Department of Gansu Province, for the purpose of strengthening public surveillance and furthering the construction of a clean, honest and diligent government administration. The survey revealed what achievements Gansu Province has made in public surveillance and provided guidelines and strategies for reinforcing public surveillance as well as improving administrative supervision.

1. The Status quo of Civil Supervision

An analysis of the data from the survey has produced the following results about the status quo, the current practice and the achievements made of public surveillance in Gansu Province:

1.1 Governments of all levels have paid great attention to and deepened understanding of the importance of public surveillance.

The survey indicated that governments of all levels, from the vantage points of democratic management, running the state by law and administration by law, have deepened their understanding of the importance of public surveillance and regarded it as a burning issue that determines whether the government runs in the best interests of the people and

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whether the relationship between the government and people can be improved or not. Thus public surveillance has functioned well in many aspects of governmental work. Public surveillance, as an important means of exercising supervision over state departments and public servants, furthering the campaign against corruption and serving as a forceful tool and reliable guide for the work of the supervision departments, is of a wide – range influence that is concerned with social justice. Also as an alarm bell and a mirror, public surveillance aims at a cohesion between the government and the people and works as an “antiseptic” against corruption. A common sense about the above – mentioned functions of public surveillance has been reached among administrative leaders of all levels and also among the majority of the public. The survey showed that 81.35% of leaders and 16.58% of citizens are of the view that public surveillance is “very important” and “relatively important” in the construction of a clean and honest administration.

While the understanding of the importance of public surveillance has been deepened, a consciousness is being evidently enhanced among leaders of all levels to be willing to accept public surveillance. 19.05% of leaders and 43.92% of people evaluated the willingness of the leaders in their own departments or organizations to accept public surveillance as “very strong” and “relatively strong”, respectively. 20.83% of leaders and 43.23% of people hold that the current attitudes of leaders towards exercising public surveillance are “highly attentive and very supportive” and “relatively attentive and supportive to a certain degree”.

1.2 Active efforts have been made to explore effective ways of public surveillance and broaden channels for public surveillance.

In recent years administrative departments and branches of all levels in Gansu Province, in accordance with the requirements from the central and provincial governments, have made efforts and adopted various meth-

ods to strengthen public surveillance by broadening channels for it and obvious results have been obtained in this respect.

First, the major function of petition letter and offence – reporting has been continuously utilized. Every year governments and supervision departments of all levels receive a great number of petition letters and visitors reporting administrative offences. In some counties leader's reception days have been designated for major leaders or those in charge to receive visiting people, in order to promptly solve the prominent problems reported that is directly connected with the interests of the people. This practice has been welcomed and highly praised by the public.

Second, the administration of governmental department, factories, villages, etc, especially administrative working procedures and hot issues under public focus, has been made public, so as to inform the people about what is going on and to get them involved in public surveillance. In some places issues concerning civilian interests such as the second – round land lease, village finance, birth control, etc. have been made public so that people will be informed of related policies, standards and official working procedures. The provision of channels for public surveillance in this respect has resulted in a reduction of petition frequency and in the stability of social order in the rural areas. In some enterprises, by way of workers congress, representatives of workers can attend democratic meetings held for leaders, get themselves involved in the decision – making concerning reform and salary raise in the enterprise. Other measures for public surveillance include making open reception expenses, employment and promotion decisions, establishing complaint letter box and enlisting representatives of workers and the management into democratic supervision. These altogether have encouraged an active part of the workers and staff in the management of the enterprise.

Third, public evaluation of leaders has been practiced and appoint-

ment of leaders publicly announced to enforce public surveillance of the leadership. Specifically speaking, in the appointment and promotion of leaders and in the annual check - up of leaders' responsibilities, public evaluation of leaders' performance is conducted in the four areas of leaders' moral character, competence, diligence and achievement. In the past three years, the provincial government and governments in prefectures, cities and autonomous prefectures have publicized the appointment of leaders and for the newly promoted leaders, announcement is made to the public before they go onto their respective positions, the purpose of which is to see whether people have any complaint or different opinions about them.

Fourth, professional performance has been evaluated of the supervision departments or organizations of various levels, for which special supervisors and anti - corruption superintendents have been invited, in order to heighten the supervision over some law enforcement departments and monopolized professions. In Gansu supervision departments of all levels have relied on public surveillance and monitoring from various social communities for questioning, complaints and suggestions about the working performance and attitudes of the departments and professions concerned. This measure has effectively reduced the amount of malpractice in official and professional work. The city government of Lanzhou, for example, conducted an evaluation of the investment environment, during which 10,000 people were organized to evaluate and rank the investment environment connected with law enforcement departments, economic management departments and some service industries.

Fifth, governmental websites, governor letter boxes and mayor hotlines have been provided to listen to complaints and suggestions from the people and to accept public surveillance. The mayor hotlines of Lanzhou, since its initiation in May, 2001, have received 24,783 complaints and

suggestions from the public, of which 5,016 were concerned with the improvement of work performance, amounting to 20.23% of the total number. And 85% of the complaints and suggestions have been adopted, with some having been handled by the supervision department. This practice has been highly praised by the public.

1.3 Public's sense of surveillance has been considerably enhanced and the function of public surveillance is becoming more prominent in finding, disclosing and punishing corrupted officials.

Channels such as questionnaire, petition letter, offence - reporting and mayor hotline have shown that the public's sense of surveillance has considerably been enhanced. 80% of the citizens said that they would "actively reveal or report" cases concerning violations of law and discipline and gave a relatively high appraisal of the status quo of public surveillance. 9.09% and 62.57% of the people surveyed respectively held that the role of public surveillance had been "brought into full play" and "basically brought into play". 23.93% and 54.79% of the questionnaire subjects said that public surveillance had played "an important role" and "a more or less role" in the significant decision - making processes of their institutions. 20.74% and 63.83% of people thought that the workers congress and village council could "play a full role" and "play some role", respectively.

Judging from the reality of administrative supervision, public surveillance has played a very important role in the construction of a clean and honest administration and in the anti - corruption campaign. In 2001 the supervision departments of Gansu handled 18,008 cases of petition and offence - reporting from the public and cases settled with the help of public petition and offence - reporting amounted to 50.52% of the total number. During the evaluation of professional performance conducted in 2001 more than 6,000 evaluation representatives were selected for this purpose

and the departments and professions concerned, in accordance with the ideas and suggestions proposed by the representatives and the public, tackled the major problems therein. The evaluation work has considerably improved the performance and service attitudes in departments such as public security, industry and commerce, tax administration, electric power, railway, post and telecommunications, with fairly good social effects. At the same time public surveillance has also functioned well in the settlement of anti - corruption cases and emergent social incidents.

2. Strategies for Public Surveillance Should Be Strengthened

Public surveillance is an important part of the construction of a democratic polity in China and it requires a systematic project to strengthen it. At present the reality of the construction of a clean and honest administration and anti - corruption campaign indicates that the supervision departments should try to solve the following problems:

2.1 With the principle of "relying on the masses for supervision work" as their acting guidance, administrative supervision and monitoring branches should pay great attention to public surveillance in their work.

For strengthening public surveillance, the first priority is to deepen the understanding of the importance of public surveillance among the supervision departments and their leaders of all levels, so as to truly bring into play its function in the administrative supervision work. The supervision departments, while fulfilling their responsibilities, must maintain a close relationship with the public so as to combine administrative supervision with public surveillance. Chinese citizens have the right to criticize and advise any state organizations or public servants, to report on, accuse and complain about any violation of law or any malpractice committed by

them. Only with the help and cooperation of the supervision departments can public surveillance of administrative branches and their public servants be put into effect and only if the supervision departments combine together administrative supervision with public surveillance and have a reliance on it, can they do their work well, as their work is based on and deeply rooted in an extensive and solid public foundation. This will result in the assertion of the right of the public to supervise over state departments and their public servants and the insurance of their honest and diligent behavior. So administrative supervision and public surveillance are complementary to each other and one can not function well with the other.

2.2 Public initiative in surveillance is to be inspired, the right of the public to know and to participate to be extended and channels for public surveillance to be unclogged and broadened.

The survey showed that among the major measures for strengthening public surveillance, people considered broadening channels for public surveillance and extending the right to know as the first priorities. Therefore, it is necessary to inspire the initiative of the public to participate in surveillance, to ensure that the public have the right to know and to provide smooth channels for public surveillance.

First, the people should not be deprived of the right to know, because it is the prerequisite of public surveillance. The supervision departments must, through newspapers and magazines, websites, radio and television and other media, regularly inform the public of the policies of the government, important administrative supervision work and related measures taken, so as to make everything known to every household. Through democratic measures such as making open administrative proceedings in government offices, factories and villages, it is hoped that administrative work of all levels will be "in the open air" and the public will have the right to know and to monitor.

Second, channels for the public to participate are to be unclogged. That is to say, the public should be provided with smoother and wider channels to criticize and put forward ideas about administrative supervision work. Space should be provided in various media for the public to make suggestions and complaints. Also, channels for people to report official offences are not to be clogged. Supervision organizations of all levels are to continue the practice of designating certain days for receiving complaining visitors from the masses and broadening ways for the expression of public opinion. Leaders are to deal with petition letters and visits in person. Modern information technology is to be utilized to establish net reporting centers, so that people can avail themselves of such means as offence – reporting by way of websites and e – mail and that the efficiency and quality of offence – reporting will be enhanced. The working manners of leaders and officials are also to be changed in that they will go to the grassroots levels to learn about people’s appeals and complaints rather than waiting for them.

2.3 In view of the reality public surveillance should, under guidance, aim at some key objects and areas, so that its effectiveness can be increased.

Public surveillance covers a wide range and people at different levels care for different issues. Thus in the current administrative supervision work key objects and areas for public surveillance should be clearly defined and well targeted. Only in this way can public surveillance be brought into play.

First, public surveillance should target at important issues and areas. As was shown by the survey, the major issues that people concern themselves with are: leaders’ anti – corruption capability and administrative performance, the appointment and promotion of leaders and the decision – making for acute problems. Therefore, these concerns should be

regarded as the key targets and areas for public surveillance. They are also the focuses of administrative supervision work in the present anti - corruption campaign .

Second, some key targets are to be under public surveillance. The questionnaire indicated that those key targets include leaders, personnel and public servants in charge of money, materials and human resources, public servants in some special departments and professions. In view of the law and discipline violation cases disclosed in recent years, the above three areas are highly dangerous groups that tend to breed corruption. So administrative supervision and public surveillance are to be strengthened in these areas.

Third, the surveillance over leaders should be a key aspect of public surveillance. The supervision over leaders, especially the “heads and chiefs”, is the most important goal of public surveillance, in order to ensure that they are politically conscious, law - abiding in their administrative work, just in making appointment and promotion, fair in tackling problems, honest and upright in character and immune to corruption.

2.4 Efforts are to be made to explore an effective mechanism that closely combines public surveillance with administrative supervision, in order to bring public surveillance into full play.

◀ The questionnaire showed that people regarded “the protection of people’s right to survey by law” as the first important measure for strengthening public surveillance. One of the urgent issues in strengthening public surveillance is to further the construction of the legal system and establish a perfect public surveillance mechanism, so that public surveillance can be guided by law. Active efforts should be made by supervision departments of all levels for the establishment of a set of effective strategies and methods that will result in a tight combination of public surveillance with administrative supervision, so that the former can really

be put into practice.

First, education of law is to be provided to leaders of all levels and to the general public, the purpose of which is to sharpen leaders' sense of lawfully accepting surveillance from the people and the general public's sense of lawfully monitoring the conduct of leaders. An education system in this respect is to be set up.

Second, in accordance with relevant laws and regulations concerning petition and offence - reporting, supervision departments should come up with ways to reward those with meritorious acts, so as to encourage initiative and enthusiasm in public surveillance. A rewarding system in this respect is to be set up.

Third, the offence - reporting system is to be perfected, in order to ensure the lawful rights, personal security of offence - reporters, and to protect their property and working conditions. A protection system in this respect is to be set up.

Fourth, effective ways are to be employed for the public to actively participate in the making of corruption - immune supervision and law enforcement bodies. A working mechanism that combines public surveillance with administrative supervision is to be set up for this purpose.

Fifth, the power of public opinion, mass media and other sources is to be enlisted to produce a supportive mechanism for public surveillance, so that it will be popularly recognized and supported by the society.

On How to Strengthen and Perfect the Work of Public Report

By Zhao Qizhong*

In China, public report is an important means of democratic supervision. People participate in the struggle against corruption through supervision organizations. So public report plays a very important role in promoting the public officers to be honest, upright and efficient in performing their official duties. And it is good for establishing clean and efficient government.

1. The role of public report in the work of administrative supervision

In China, supervision organizations provide favorable conditions for the public to supervise the government by setting up report system, which can arouse people's enthusiasm of establishing incorruption government and taking active part in the struggle against corruption. Years of experience of building clean and intelligent government and fighting against corruption show that public report plays a very important role. Firstly, it is one of the important functions of the supervisory organizations, and it is also the main way for the supervisory organizations to get the clues of cases. Continuously report the corrupt officials can provide plenty of clues of cases and lay a foundation for the work of supervisory organization. Some materials show that of all the serious and great cases investigated and dealt

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with by commissions for inspecting discipline or supervisory organizations of national central government, over 90% is reported by the public. In Qinghai province, from 1997 to now, the commissions for inspecting discipline and the supervisory bureaus have received 25741 report letters from the people, 90% of which are accusation letters. Of the serious and great cases, 80% are reported and accused by the public. Secondly, public exposing provides rich materials for promoting the work of establishing incorrupt government and it promotes further development of the course of setting up incorrupt government. In recent years, the important work is carried out according to the opinion of the public. For example, the work of the supervisory organizations of different levels of Qinghai province, such as the management and use of the capital of national debt, the settlement of the government officer's over-taken houses, clearing the over-grade cars of the Party and government organizations, overcoming the unhealthy tendencies in all trades is carried out according to the public opinions and suggestions provided in the report letters. Meanwhile public exposing offers a lot of opinions and suggestions, which are important reference and basis of making the work plan for establishing incorrupt government the struggle against corruption. Thirdly, public exposing also the work of attendance of government institutions. Through the supervisory organization, the people can often offer opinions on the administration of the government and the public officers, and supervise them and make them change their work style, improve administration efficiency.

2. How to strengthen and perfect the work of public report

Since public report plays a very important role in the construction of honest and efficient government and the struggle against corruption. The work of public report must be strengthened and perfected in efficient way.

2.1 To establish convenient and prompt report institutions.

The aim of the work of supervisory organizations is to report and accuse the corrupt officials conveniently so as to attack them promptly. If people find out and disclose the deeds of corrupt officials in time, the supervisory organization can soon get the clues of the cases. It is favorable for attacking the corrupt officials. So it is very important to create favorable conditions for the public. As things are at the moment, generally speaking, the supervisory organizations have set up agencies for public report.

But more convenient and prompt institutions should be set up in order to give better play to public report. Firstly, favorable conditions should be created. Supervisory organizations of all levels should not just set up reporting centers. The more important thing for them to do is to announce the telephone number and address of the centers, to set up accusation letter box, to move the exposing agency from residency of government to the place near ordinary people for the people to expose conveniently. If it is possible, a web site should be set up for the public to expose through network. Thirdly, more attention should be paid to the work of report among common people. In the farming and animal husbandry areas of Qinghai province, there are no good transport and communication facilities. This is one of the most difficult points to the work of exposing. In view of this kind of situation, the exposing centers should not just wait passively, instead, they should go actively to the rural areas, change the method of their work and carry out the work widely and thoroughly.

2.2 To make and perfect the law for public exposing.

In order to strengthen the authority of public exposing, the work of legislation for public exposing should be strengthened. The Constitution of China and some other laws provide some regulations about the citizens' democratic rights of exposing, accusing and appealing. Some departments

and districts also draw up certain regional laws and regulations for public exposing. But some of these laws and regulations are too general or too rigid. Some of them are not practical for operating or lack of generalized use value and authority. The law must specifically provide the citizens' duties and rights for exposing and the way of how to deal with exposed and accused cases and how to protect accusers' legitimate rights in order to put the work of public exposing into effect. At the present, the opportunity for enacting the law of public report is arising. The Constitution of China has provided legal basis. The course of struggle against corruption in China, especially the practice of carrying out the work of report in recent years, accumulated rich experience for public exposing and laid a practical foundation for making the laws for public exposing.

2.3 To raise the work efficiency of dealing with the cases.

To some extent, the low speed and deficiency of dealing with public reported cases will frustrate the people's enthusiasm, and even preventing the work of report. The main characteristics of report work are attacking quickly, investigating and dealing with directly. The exposing centers should set up such exposing agencies as "110" in public security organs and form fast reaction supervision groups to decisively and promptly investigate and deal with some simple and urgent cases which has clear and simple clues. By doing this, the exposing centers can penalize the corrupt officials and can give the public satisfactory reaction. Of the complicated cases or the cases beyond the jurisdiction, the exposing centers should transfer them in time to other agencies and urge them to deal with the cases quickly. The previous work method should be changed. In all, the exposing agency should pay more attention to public exposing, raise the work efficiency in order to carry out the public supervising, and change the work of public exposing into the effect of struggle against corruption directly. As a result, the prestige of exposing agency can be raised. The

more important thing is that it can encourage the enthusiasm of the people for taking part in the fight against corruption.

2.4 To reward those who have gained merit in the work.

It is of practical significance to reward those who have gained merit. Many people expose not for being rewarded but for the hatred to corrupt phenomenon. They know they are exposing the corrupt officials at the risk of their own benefit or safety. But they do that for the benefit of the people and the country. They even disregard their own safety. Such actions should be rewarded. The 26th clause of the Rules of Exposing Work of Supervisory Organizations which was promulgated by the Ministry of Supervision stipulates that if the reported cases proved to be true and the law-breakers are penalized according to that, and if the report have retrieved or decreased the loss of the country and collectives, the accusers should be rewarded properly. If they make great contribution, they should be given a handsome reward. These rules are not only the recognition and appreciation for the actions of people who report at the risk of their own safety and benefit so as to defend the benefit of the country and collectives but also efficiently encourage the public to take active part in the work of report.

3. The supervisory organizations must guide and protect public exposing action

3.1 To guide the citizens' exposing action correctly

The supervisory organization should not only arouse the enthusiasm of the public, but also guide the citizens to take part in the fight against corruption systematically. In order to deal with the problems dialectically. The following two points should be paid attention to. The first important thing is to widely mobilize the public to take active part in the fight against corruption. People have deep-seated hatred to corruption, so they

have enthusiasm of fight against corruption. One of the most important functions of supervisory organizations is to take all kinds of efficient measures to change the initiative of the people into the action of exposing illegal activities. The supervisory organizations of all levels use flexible and various methods or choose new and moving contents to combine the action of publicizing the arrangement of center government with the special agency's great successes in the struggle against corruption, to combine the struggle against corruption with reform, development and stabilization, to guide the people with the correct opinions, to educate the people with typical cases, to make the people fully know the significance of the struggle against corruption and their right and duties in the struggle, to encourage their will of fighting, to strengthen their confidence of fighting against corruption and further arouse people's enthusiasm of exposing and to give full play to public report. The second important thing is to correctly guide the people to take part in the fight in proper way, to educate people to understand correctly the work of exposing so as to raise the quality of report. When people go to supervisory agency to expose, they can not make groundless accusation, they can not just take what others say as evidence. They should be objective and fair and try to avoid false exposing. The supervisory agency should also guide people to know their own right of exposing and exercise their rights of report according to law. They should let the people know that they mustn't give vent to their own hatred or bring a false charge against others in report.

3.2 The supervisory agency should guarantee the report rights of people according to law.

It is the main responsibility to protect the people who report and to ensure the citizens' rights of exercising their rights for exposing and accusing. How to protect the people's rights? There are two basic things to do. One is to do the work of maintaining the secrets of the clues and

earnestly protect the legal rights of the people who report. To do this work well is the important guarantee for the public to exercise their right of report. This is also an important discipline of supervisory organization. If they can do this work well, to a great extent they can protect people from being retaliated. At the present, most of the cases that the supervisory organization deal with are from anonymous exposing. The main reason of this is that the public don't trust the work of keeping secret by supervisory organization. Because of this, the exposing center of supervisory organizations should establish a set of rules for keeping secret. They mustn't disclose the contents from report or transfer the material to the reported people or units. Those who have done that must be punished seriously. The second thing is to investigate and punish the person who have retaliated the action of report. People's report about the government organization or public officers all hit their vital points. So the fight between supervising and anti - supervising is endless. The cases of stopping, suppressing and revenging are often found. All in all, in order to protect the citizens' legal rights, give full play to public report in the construction of incorruptible and intelligent government and the struggle against corruption. The supervisory organization must investigate and seriously punish those who retaliate and dispel the people.

The Characteristics of Civil Surveillance and Its Relationship with Administrative Supervision

By He Yaodong*

Civil surveillance means citizen, according to the rights authorized by Constitution, has the say to supervise the working process and result of implementation of the various state policies, laws and regulations by state organs and civil servants. China is a socialistic country in which people are masters. For that case, the nature of the country requires that the state organs and civil servants must accept the civil surveillance. The civil surveillance is an important part of the socialist supervision system, and it is the important content of rights authorized by China's Constitution. Successfully guaranteeing citizen's rights of supervision, and developing the function of citizen's supervision, are not only the important sign to judge whether socialist democracy is mature or not, but the significant condition of giving impetus to anti - corruption, doing well in administrative supervision, strengthening construction of clean government and removing corrupt phenomenon.

1. Characteristics of civil surveillance

The Constitution stipulates that citizen has the right to supervise all state affairs. The object of civil surveillance is state organs and civil ser-

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vants. The content of supervision covers political, economic and cultural realm and others as well. Therefore, citizen's supervision is everywhere and includes everything.

Civil surveillance is the base of various supervision in our supervision system. As citizens implement the supervision through reporting, accusing, complaining to the higher authorities about the injustice and other existent forms, these supervision forms reflect the autonomous character and independence. At the same time citizens merge their own supervision into other supervision and make it become the base of others. Other supervision will become water without source and wood without root. Civil surveillance is a general process from subordinate to higher authorities. It is the supervisory base of special offices and each system won't obtain a satisfied result unless it coordinates and promotes mutually, and develops its own advantage. However, citizen's supervision cannot be substituted. Otherwise, supervision from subordinate to higher authorities and supervision of special offices will become castles in the air. Among the big cases done by Ningxia Autonomous Region, more than ninety percent of which get clues from citizen's supervision. For example, Yang Jie, form director of Ningxia Tobacco Monopolistic Bureau, accepted bribe. Zhou Wenji, former vice president of Ningxia People's Political Consultative Conference, broke the discipline of organization and personnel. Wang Mingzhong, former deputy mayor of Wuzhong City, broke the discipline. The case above were all investigated and handled after citizen's report or news media exposure. According to statistics, last year there were 7072 letters, visits and reports from the citizens accepted and heard by Ningxia Hui Autonomous Region. Among them law - breaking cases reached 1031. It is because of citizen's supervision and their constant reports that the corrupt people have no places to hide. The deterrent function of citizen's supervision is better than other supervision forms.

The citizen is the directly undertaker of social practice, and the foothold and starting point of state formulating policies. They are either the beneficiaries of right policies or the sufferers of wrong policies. The administrative action of state organs and civil servants give citizen the most direct impression. Citizen has direct feeling about the good or bad result of the administrative action of state organs and civil servants; therefore, civil surveillance is most direct, truest and can achieve a remarkable effect most easily. The supervision mechanism of Ningxia Hui Autonomous Region has specially invited several hundred supervisors one after another, who came from different fields of the society and played an important role of supervision in every social aspect since 1993. These supervisors participate in many works as checking unhealthy tendencies, appraising behavior and stopping collecting irrational fees. They play a special function in solving social attentive issues.

Citizen can put forward report, accusation and appeal directly, and supervise state organs and civil servants or care for state affairs and defend citizen's essential benefit stemming from an attitude of masters of the state or supervise their own legal benefit. The behavior of supervision is willingly without any force and interference from organization and individual. At the same time, because citizen has direct relations with supervisory people and things, they know the cause and effect, minor details, right and wrong of the supervisory people and things. Therefore, the supervision is objective.

There are Trade Union, Communist Youth League, Women's Federation, Science Association, Federation of Cultural Circles, and Federation of Returned Overseas Chinese from central administration to locality and there are also provincial social science federation and labor association. They are bridges and links respectively by which government connects with different social communities. They participate in politely and

discuss by different organization and particular emphasis on work. Especially when they safeguard the benefit of the seduction in general according to respective regulation, they report advice and demand to the government in order to safeguard specific benefit of different groups at the same time, which not only make the government more overall, accurate and rational in harboring contradiction between different groups and different benefit, and formulating and implementing policies but also play an active supervision function when state organs and civil servants implement various state policies.

◀ 2. Relationship between civil surveillance and Administrative Supervision

↳ Supervision mechanism must listen attentively to the people's advice and demand, depend on citizen's supervision and handle the relationship well between the two sides in order to supervise government and civil servants so that they can administrate according to law, and work efficiently and honestly. This is not only the responsibility and obligation of supervision mechanism but also the basic of carrying out supervision well.]

Dealing with the relationship between domination and basics. Supervision mechanism and civil surveillance are interdependent based on the premise that regards supervision mechanism as domination and takes citizen's supervision as basic according to the inherent regular pattern of supervision system. Citizen's supervision which sets up on the basic of extensive social community provides large quality of supervision information to supervision mechanism, add transparency to supervision target and lay the solid base for supervision mechanism formulate decisive policy and plan, implement organization and coordinate work. From another side to see, supervision mechanism takes its own legal supervision function to make civil surveillance to yield legal result and obtain the aim of safe-

guarding the citizen's supervision right and promoting supervision system in good circularity.

□ Dealing with the Relationship between Guidance and Dependence. A principle of our supervision work is that our supervision mechanism must develop their work under the help of the citizen. But the citizen's supervision needs to guide. Without a correct guide, the higher - powered social capability could not be formed, and it is not enough to deter the law brokers. The supervision mechanism should support this kind of guide because it is a special inner supervision department of the government, accept governmental lead directly, and it can catch the supervision emphases and center and also lead the civil surveillance to the direction with plan and organization through all kinds of methods and channels. The supervision mechanism should keep analyzing the information given by the citizen's supervision, fixing the different emphases and center in the different period, leading the citizen to gather power against a certain trend of corruption to make a violent offensive. Then it can greatly push forward the supervision departments and stimulate the state organs and civil servants become more and more probity and diligence.

Creating good conditions and encourage citizen to participate in supervision. The civil surveillance is a very important way to solve corruption. To create conditions for the citizen's taking part in the supervision is the origination power to do our administrative supervision work well. And also it is a very precious experience make out of our long time work. Last year, under the participation and supervision of the citizen, the Supervision Mechanism of Ningxia Hui Autonomous Region corrected four of social security capital and breaking discipline to use relieving funds, which is about 3,140,000 Yuan RMB; and standard 226 construction engineering projects; and form charging and using the national debt nearly about 180,000,000 Yuan RMB; implement government purchase for about 1,

113 times and get the bid contract for about 428,000,000 Yuan RMB, which economize 54,100,000 Yuan RMB.

3. The measures to guarantee civil surveillance

✓ In order to dredge the civil surveillance channel and ensure the civil surveillance push out completely, we must do as follows in our work:

a. Giving enough real right. If you want to develop the citizen's enthusiasm of taking part in supervising and let them set off their functions and power during the fight against corruption, you must give the citizen more and concrete right. First, you should ensure citizen's right of knowing the inside story. You should make up rules and regulations to make clear the content, limits and ways of citizen's right, and that administrative mechanism must open government affairs and should get to the open degree according to the law. You should standard that citizen has the right to ask and supervise; standard administrative mechanism and civil servants who do not open or make false open and do not accept citizen's question and supervision to fulfil legal responsibility. The second is to fulfil the citizen's supervision power. Through legislation you can make the citizen's criticism more efficiency and turn into judgement. Ningxia Hui Autonomous Region fulfils the citizen's supervision right fully through dealing with three messes on the road; criticizing professional morals and predicting democratically, which make Ningxia become one of the first provinces without three messes and the professional morals are getting better and better year by year. The last one is to encourage the citizen to exercise their supervisory power. You should establish mechanism which to combine moral encouragement with material reward, utilize both traditional methods and new methods, establish the commendatory and rewarding system and commendatory funds, and generously reward those who contribute outstandingly during the fight of corruption.

b. Establishing Protective System. If citizen participates supervision, they should think about their own benefit and safety. So, the protective system should be set up to decrease risk and loss of citizen who are concerned with supervision and to guarantee their safety. Firstly, citizen's supervision insurance should be set up to provide economic protection on their personal safety, property and life etc; implement system with economic compensation for the victims attending supervision. Secondly, you should establish following, investigating and protecting system so that the person, who reports and makes contributions, should be made follow - up protection within one or two years to keep their legal right from trespass. Thirdly, you should make about detailed secret system and guarding measurement of letter visit and report, especially make a definite and concrete stipulation for convinced and punishing means of telltale action in letter visit and report in avoiding telltale and a disguised form of telltale.

c. Making Participation Carrier. The main aspect is to widen the former channel, to open the new way and to perfect the operational methods and procedures of citizen's supervision. On citizen's letter visit and report, it can be tried out on the web on the base of standard former reporting box, reporting station, reporting phone, reporting center, and improving letter visit management quality. Setting up special telephone line that is nationally united is for the convenience of citizen's participation. On participating supervision for citizen as the formal representative, the procedures for all kinds of representatives must be strict so that the representatives of the People's Congress, Committee members of People's Political Consultative Conference, deputies of employees, villagers, citizens and all supervisors—they are able to represent citizen's willingness really; the system should be perfected and practiced when the citizen participate supervision through organized activities, for example, deepening the open degree of government affairs, of village affairs, factory affairs and expend-

ing the open content and range; Furthermore, when the citizen participates supervision through news media; some social columns such as “the hot topics”, “the hot line for anti - corruption” should be done well, the new columns should be opened continuously to provide a media room for citizen to fight against anti - corruption.

d. Strengthening Organization Guide. Firstly, duty should be arranged well. It should put citizen's participation and supervisor into the big framework of different government level construction duty system. It should formulate that different organization level guides citizen to participate supervisory concrete duties and place it on the arrangement of anti - corruption, decide on concrete content, demand and standard etc. of organizing citizen to participate supervision, and important content on inspecting achievement of anti - corruption. Secondly, organization should be arranged well. Different government level should establish leading group of anti - corruption participated by citizen. It should be supervision department lead off to set up to coordinate group, which cooperates with departments from public security, judicature and audition to develop work. When commenting and supervising the officials from state organs, the departments of citizen to take part in. Thirdly, guide should be arranged well. Through developing the movement of publicity and consultation, holding training professorship and other forms, it should educate citizen to strengthen consciousness of law, correct unsuitable and wrong activities, seek truth from fact to report conditions, do not frame a case and trump up charge against others. It should publicize the good practice of citizen's supervision and create a good atmosphere of citizen participation supervision.

Play the Role of Civil Supervision and Promote the Efficiency of the Administrative Surveillance

By Abdurahman. Pulat *

Along with the carrying – out of the West Region Development Strategy and China's accession to WTO, the drive of building clean and efficient governments and anti – corruption in China West Region is faced with more challenges and opportunities than ever before. So it is of great importance to promote the governments and the public servants thereof to exercise administration in public affairs lawfully, strictly, and scientifically by playing full roles of the citizens' supervision and increasing the efficiency of the administrative surveillance.

I . Intensifying citizens' supervision—an effective approach to increase the efficiency of the administrative surveillance

1.1 The citizens' supervision is a concrete application of the mass line in the building of clean governments and anti – corruption drive. Citizens are the main stream of social practice and production, who are living and working at the gross roots. They are completely aware of the administrative performance of the governments at all levels and the public servants working forthwith. So they do have the rights to talk about and comment

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on the activities performed by the governments. Our government has consistently attached a great importance to play the role of citizens' supervision in the drive of building effective and efficient governments and anti - corruption. Citizens are also the main corps of power surveillance. Only by believing citizens, relying on citizens and honestly taking citizens' willingness of support, satisfaction and response as the criterion, can the power controlling and supervising mechanism be effectively established. It is a realistic embodiment of the mass line in the drive of building clean governments and anti - corruption to rely on citizens supports and participation. The purpose of leading and encouraging citizen to participate in the drive of building clean and honest governments and anti - corruption is actually to mobilize citizens initiative and enthusiasm to develop the economy and build the socialist democratic politics. From citizens point of view, almost hundred percent of people have a deep hatred for corruptionists, and most of the citizens show boldness to fight the graft and corruption. In fact, the citizens involvement is characterized by the fact that the individual citizen's action has a direct impact on the drive of building clean government and anti - corruption, positive or negative.

— 1.2 The citizens' supervision is an effective measure to check and prevent the corruption over - spreading.) Reviewing the work done in recent years, we have made a great deal of achievements just because of the reason that the role of citizens supervision has been fully played in the anti - corruption campaign. It is proved in practice that most of the valuable data and information related to the cases under investigation by discipline supervision departments at different levels have been provided by and through citizens' prosecution and supervision. From citizen's visits and correspondences, reports and prosecution, a great deal of suspects and clues related to the law violation and discipline breaches have been found out. and necessary data and information collected, so that the corruption

criminals were seriously punished. In this way the citizen's supervision is becoming more and more powerful and gaining a strong influence on the anti-corruption drive in the whole society. And at the same time the citizen's supervision is helpful for the supervision departments to perform their duties and deal with cases of law violation more fairly and carefully.

1.3 The citizens' supervision is an objective demand of the socialist democratic politics. The citizens' supervision right is endowed by the Constitution. It is stipulated in article 41, Institution that "the citizens of People's Republic of China have the right to give criticism and recommendations to the state governments at any level and staff thereof; and have the right to prosecute and make law suit to the law breaking activities and delinquency of the state governments at any level and staff thereof; " In essence, the citizens' supervision actually shows the masses comments and recommendations to the performance of the governments and the staff thereof, and prosecution to the law breaking activities and delinquencies through different channels and in different ways. And this is also an important form for citizens to exercise their democratic rights and participate in the administration of public affairs. The mass is the main body of citizen's supervision, the approaches of which are various, the scope of which is wide and broad, and the procedure of which is simple. It is a confirmed and fixed state objective to build socialist democratic politics. The citizen's supervision is not only a direct approach for people to give their opinions but also an important channel for the governments to link with the people, and what is more, it is an objective requirement to build socialist democratic politics.

The citizens' supervision is in conformity with the administrative efficiency surveillance. As for the function it is obvious that the citizens' supervision and administrative efficiency surveillance is closely related and inseparable. The function of administrative efficiency surveillance is su-

pervision and checking which is conducted on the basis of the citizens' supervision. The administrative efficiency surveillance is processed on the condition of the citizens' supervision, and likely the citizens' supervision is encouraged and prompted by the administrative efficiency surveillance. Under certain circumstances, they interact and benefit each other. Anyway the administrative efficiency surveillance cannot be replaced by citizens' supervision and other supervision forms. As an external supervision system for the governments performance and administration activities, the citizens' supervision just seems to be passive, indirect and slow, sometimes even unfamiliar of the situation of governments activities and it cannot reach the result of pre - supervision and pre - prevention. In comparison, the administrative efficiency surveillance as an internal supervision mechanism it can carry out direct supervision actively by supervising the law enforcement and special inspection and further more the direct participation, tracing and tracking.

II . Playing full roles of citizens' supervision and strengthening administrative efficiency surveillance

2.1 Relying on citizens' supervision and speeding - up efficiency surveillance. Actively carrying out the administrative efficiency surveillance is an important obligation of the supervision departments endowed by law.) The "Administration Supervision Law" includes the fundamental contents of the efficiency surveillance: "to ensure the government policy carrying forward, safeguard administrative discipline, promote the building of clean government, improve the administrative management, increase the administrative efficiency". These special functions and overall strength demonstrated by the supervision departments are not replaceable by any other departments. The efficiency surveillance and citizens' supervision is integrated, inseparable, interactive and mutually beneficial. On-

ly by combining the two, can the function of the administrative efficiency surveillance be fully and better played. Administrative efficiency surveillance is an imperative task faced by the supervision departments at all levels at present. It is an important measure to intensify citizens' supervision, promote administrative surveillance, conduct pre - supervision and on - going supervision. Only by strengthening the administrative efficiency surveillance, playing roles of citizens' supervision can administration management of governments and public servants thereof be improved, administrative efficiency and proficiency be increased, and duties legislatively discharged.

┌ Administrative efficiency surveillance is carried out on the basis of citizens' democratic management. All rights belong to people, and the authority of the administrative efficiency surveillance lies in the democracy of the administration power. The Administrative efficiency surveillance is practiced through citizens' supervision to the governments and public servants thereof, and the effectiveness and quality of the administrative surveillance is improved by listening to the people and understanding the people. It is stipulated in the Constitution that the purpose of the supervision and surveillance is to let the masses to prosecute and make law suit against the law breaking activities and delinquencies of the governments and the public servants thereof to the supervision departments. This means the administrative efficiency surveillance must be based on reality, reliance on citizens and close links with the citizens. Through masses' information and feedback data, the plots and clues related to the law breaking cases could be acquired so as to increase the efficiency and proficiency of the administrative efficiency surveillance.

2.2 Strengthening surveillance sense and building up supervision conception. First of all we must keep a clear head that uncontrolled power is destined to fall into corruption and none of public servants would sur-

vive within the state governments without being supervised. Second we must make sure that the purpose of surveillance is to safeguard the political power and cherish the public servants, for every public servant is a supervisor as well as supervisee, who has right and responsibility to supervise and the obligation of being supervised as well. Third we must absolutely understand that supervisor and supervisee have the same objective, that is to ensure successful implementation of the principles, lines and policies of the governments. So it is required that both supervisor and supervisee must have a high sense of supervision and a high political consciousness and exert a great effort to the supervision jobs. A step – by – step program should be established for citizens training and education on democratic supervision and participation in government administration. The education program is being carried out with focus on increasing awareness of all public servants and citizens that it is very important and imperative to strengthen the supervision to governments and public servants thereof and build clean and efficient government, which are closely related to our nation's life and future. Currently there are some unhealthy conceptions existing in supervision work, for example supervisors are reluctant to perform even refuse to do their duties, and supervisees unwillingly accept supervision, even reject the supervision. All of these incorrect and negative phenomenon must be redressed and eliminated. We should open up more and more channels, find much more approaches and create favorable atmosphere for citizen positively and willingly to discharge their responsibilities for supervision in a down – to – earth way.

2.3 Prioritizing the key issue and increasing pertinence and effectiveness. Prioritizing the key issue means that the administrative efficiency surveillance and citizens' supervision must be directed to supervision of economic returns, working efficiency and most importantly the supervision of implementation and enforcement of the government key policies, regu-

lations, laws and statutes, with economic construction in center. The supervision for the administrative departments and public servants thereof should be put at the first place. We must timely tackle and correct wrongdoings like performance with out law, not strictly enforcing laws, no care about the law – breakers, orders not carrying out, bans going nowhere, implementing central policies in different ways so on, all of these impede the reform, social stability and development. The administrative efficiency surveillance and citizens' supervision is carrying out with pertinence to key fields and key departments so as to promote the governments and public servants thereof to exercise administration strictly, lawfully and scientifically.

Adhering to the principle of seeking truth from facts, doing everything on basis of reality and increasing supervision effectiveness. At present we should give priority to the conversion of governments function, the working styles and methods in order to adapt ourselves to new situations and new requirements along with China's entry to WTO. The performance of bureaucratism, formalism, fraud and deception, power abuse must be seriously punished to warn the law – breakers and corruptionists. In final analysis we are carrying supervision to the governments and public servants thereof with purpose of enhancing service quality of the governments, intensifying responsibility and professional morality of the public servants, and being of better service to the people, to reform, development, stability and economic construction.

III . Adhering to principle of supervision by law, carry out the administrative efficiency supervision with the center on the major work of the government.

Only by closely combining the supervision with the major task of the governments and conducting supervision lawfully, can the administrative

efficiency supervision obtain its proper position. First the administrative efficiency supervision must be included in the integrated scheme of the government. The suggestions and recommendations concerning the supervision are to be made on the basis of government's program and the supports and approvals for supervision work are gained from the governments at same levels forthwith. In this way, the apparent effects and roles of the administrative efficiency supervision will be surely demonstrated, and the aim of serving the government's key work is finally reached. Second the themes and projects must be specified in considering the government's main jobs. Currently there are lot of jobs for administrative efficiency supervision to do, so in specifying the projects and making plan, the supervision departments must have a whole picture of situation of reform and opening - up and economic construction and put the government's key work in center and grasp the key link. In making options to specify the projects, more attention should be drawn to the issues which need to be solved by the governments urgently, which have strong impacts in common on the implementation of the key tasks, and for which the mass has a lot of complaints and recommendations, otherwise there will be an incoordinate development and unfavorable atmosphere for the administrative efficiency supervision taking the whole situation into consideration. At the same time the administrative efficiency supervision cannot be moving on without the cooperation and participation of the concerned departments. As an operational unit the supervision department must be aware of and have a good command of the whole process of under - going projects. Due to different kinds of government departments with different functions, the issues the administrative efficiency surveillance deals with are very complicated and particular. So it is impossible or difficult to get down to specific business and acquire expected results without the cooperation and participation of the concerned departments. In a word, the goal of the ad-

ministrative efficiency surveillance could be reached only through joint efforts and active participation of all steering government departments and professional supervision departments.

Administrative efficiency surveillance must be carried out by adhering to the principle of supervision by law. It is the aim of administrative efficiency surveillance to strengthen internal supervision and management of the government mechanism. How to exercise administration by law is one of the issues to be solved through administrative efficiency surveillance. Exercising administration by law for supervision department itself is to conduct supervision by law. Along with the implementation of the fundamental strategy of administering country by law, all kinds of government work are being carried out by following law procedures. The citizens' awareness of law is continuously increasing, and they put forth higher requirements for administrative efficiency surveillance. The higher requirements are also applicable to the public servants working with the supervision departments who have the responsibility to perform their duties by law, or the administrative efficiency surveillance will not reach the expected results. Supervising by law means that the supervision departments are required to conduct supervision and surveillance by strictly observing "The Constitution of People's Republic of China", "The Administrative Supervision Law of People's Republic of China", and other related laws and statutes.

Three linkages must be controlled for conducting administrative efficiency surveillance by law. First specifying the projects by law and within the law scope limits. The cases of the efficiency surveillance must be defined within the responsible fields of the supervision departments. The supervising target must be one supervised by law procedures. Second, work must be done by strictly following the law process and procedures, and the working plan and working process cannot be altered at random.

Third, performing supervision duty by law we must do everything on the basis of facts and take the law as criterion, and use the inspecting right, investigating right, suggesting right and administration handling right properly and correctly. Close attention must be paid to better using "Supervision Notice", "Supervision Suggestion", and "Supervision Decision" to ensure effectiveness of the administrative efficiency surveillance.

Ombudsman and Civilian Oversight

By Alice Tai *

I have been asked to speak on the subject of "Ombudsman and Civilian Oversight". I am happy to share with you Hong Kong's experience. Under the "one country two systems" policy, the Hong Kong Special Administrative Region operates under different laws, policies and systems from those of the Mainland of China. With China playing host to this 7th AOA Conference, it gives me great pleasure and a unique opportunity to introduce to my compatriots on the Mainland what Hong Kong's Ombudsman system is all about.

Hong Kong's Ombudsman system is fashioned after the classical ombudsman model. In my presentation today, I would use Hong Kong as an example to illustrate some of the fundamental principles of the ombudsman system and the way this works for Hong Kong. In Asia, the family of Asian ombudsmen is not a homogenous one, operating different systems as prescribed by our respective legislation. In these two days, we hear of the many differences between the various systems, and we affirm the bond of a common vision and values that ombudsmen share, wherever they come from.

Before I start, I would like to make a comment on the topic itself. In the English language, the word "oversight" has two meanings. The first refers to "supervision", or "looking at from above". The second means "omission to notice" or the "mistake of inadvertence". In the con-

* The Ombudsman, Hong Kong SAR.

text of an ombudsman's work, there is obviously only room for the first meaning, given that the office of the ombudsman is a means through which the public seeks to exercise supervision on the Government's actions. Ironically, the second meaning is a form of maladministration within the ombudsman's purview.

Citizens' Scrutiny and the Administration

When preparing this speech, I carefully outlined a framework of issues to be covered. The first was the need for civilian oversight or supervision. This really set me thinking. People nowadays take for granted the trappings of democracy. Human rights, equal opportunities, accountability and transparency are by-words in our modern day society. This has not always been the case.

The idea of establishing an ombudsman system in Hong Kong was first mooted in the 1960s. At that time, Hong Kong already had an established complaint handling machinery, with unofficial members of both Executive and Legislative Councils and the Urban Council playing a pivotal role in receiving and redressing complaints from the citizens of Hong Kong. Judicial scrutiny of official action with its attendant remedies was also an available option. What then were the perceived shortcomings of the system?

In Hong Kong's adversarial legal system, courts do not carry out investigations. Judges act as umpires in proceedings where parties (usually acting through their lawyers) present the facts of their case and relevant arguments. Courts are expensive, with cumbersome procedures. In the arena of administrative law, judicial scrutiny can be pursued only where grounds exist to show that official action may be illegal, irrational or procedurally improper. Unless there are very strong grounds, courts do not easily interfere with the acts and decisions of the Government. It is com-

monly acknowledged that court proceedings are not appropriate for complaints about official actions that may be administratively defective but do not meet the judicial criteria of "illegality, irrationality and procedural impropriety". Indeed, experience shows that a high incidence of complaints lends themselves to ready resolution by an independent body acting informally but with authority.

Political avenues may not be the best means for redressing grievances either. In most societies, popularly elected representatives whether from the national assembly or local government, have fairly onerous public duties. Redressing complaints must perforce be a function, but few are equipped to undertake detailed investigation into the decision-making process. The public also sees clearly that political affiliation influences politicians' stance. Inevitably, pro-Government politicians lose public credibility when they endorse official actions, while critics of Government could hardly expect to receive any assistance other than what decorum prescribes as essential.

Against this backdrop, the Ombudsman comes into being to improve the ordinary citizen's plight. The ombudsman is typically the people's watchdog against public sector maladministration. The term "ombudsman", originated in Sweden, meaning "people's protector or representative". The ombudsman seeks to defend individual citizens against unfair administrative action of officials by subjecting Government's use of power to close scrutiny.

The Bye-Laws of the Asian Ombudsman Association describe an ombudsman as a person who—

— investigates the grievance of citizens concerning the acts or decisions of the administration ;

— makes recommendations for the redress of errors and for better governance ;

— discharges his functions independently of the administration; and is appointed by the Head of State, Government or Legislature, normally according to statute.

The Hong Kong Experience

In 1969, the Hong Kong branch of Justice published a report calling for the establishment of an office to provide “a simple, inexpensive and effective machinery for safeguarding fundamental rights and freedoms and for enabling those who have suffered from violation of their rights to receive assistance in obtaining redress”. The Government was not interested. For the next 19 years, Government continued to resist the proposal, preferring to improve on pre-existing complaint redress channels instead.

Eventually, with overwhelming public support, the Government appointed a Commissioner for Administrative Complaints (COMAC) and his office became operational on 1 March 1989. In recognition of the pre-existing channels for redressing grievances, the newly established COMAC system operated alongside the Office of the Unofficial Members of the Legislative Council, District Offices and the independently monitored complaint redress systems for the Police and the independent Commission Against Corruption.

In those early days, the public could only lodge complaints with COMAC through Legislative Councillors. The law was changed in 1994 to abolish the referral system and to give the public direct access to COMAC whose jurisdiction was also expanded to cover, for the first time, six major public bodies that were not government departments. COMAC was also empowered to initiate direct investigation into maladministration and to publish his findings while protecting the identity of the complainant and persons against whom adverse findings were made. In December 1996,

the law was amended to change COMAC's English title to "The Ombudsman".

Institutional Safeguards to ensure Independence

To be effective, an ombudsman must and be seen to function independently of Government. In Hong Kong, there are institutional safeguards to ensure the independence of the ombudsman.

Source of Authority. The Ombudsman Ordinance makes specific provisions for the appointment of the ombudsman, the functions and powers of the office and certain other procedural matters relating to investigations and publication of reports by the ombudsman. The law also provides that general revenue shall bear the expenses of the emoluments of the ombudsman and staff, as well as the operating costs of the office.

Term of Appointment. The Chief Executive of the Hong Kong Special Administrative Region appoints the ombudsman, and sets the terms and conditions of appointment. Once appointed, the ombudsman holds office for a renewable five - year term. In practice, the remuneration package for the ombudsman is pegged at the same level as the head of policy bureaux of Government.

Removal from Office. Once appointed, the ombudsman can be removed from office only on two grounds, namely inability to discharge his functions or misbehaviour. Even then, this will require approval by a two-third majority of the Legislative Council.

Ultimate Authority. In Hong Kong, there is no surveillance authority over the ombudsman's investigative functions. In determining whether to undertake, continue or discontinue an investigation, the ombudsman shall, subject to the provisions of the Ordinance, act in accordance with his own discretion. The ombudsman's exercise of statutory powers under the Ordinance is final and no appeal shall lie there from.

Political and Operational Independence

Apart from being institutionally independent, the ombudsman must also be politically independent. Political interference or influence can come from various quarters. In some territories, it has been known that Government officials or politicians seek to influence the ombudsman in the performance of his duties. In all honesty, I can say that in Hong Kong, the ombudsman operates, and has always operated, free from political interference.

In addition to overt influence, pressure can also be put on the ombudsman in more subtle ways. Typically, this can be done by tightening funding or through other budgetary or staffing controls. Given that the ombudsman is inevitably perceived to bite the hand that feeds him, it is perhaps to be expected that the Administration would normally be wary of giving the ombudsman too much of a free hand. Let me assure you, I have absolute autonomy in my office.

Last year marked another milestone in Hong Kong's history of ombudsmanship. Enactment of The Ombudsman (Amendment) Ordinance and its commencement on 19th December formalized the administrative and financial independence of the Office of the Ombudsman. Until last year, the Office operated like any other government department in staffing and systems, with staff seconded from the civil service and procedures adapted from the Administration. There was concern about these arrangements, as people feared that the independence of the Office might be compromised through the soft - pedalling of staff afraid of offending departments being investigated in the knowledge that they might be posted there at some later date.

What does "independence" mean in this context? Essentially this involves obtaining a one - line vote subvention from Government, to cover

the operating costs of the Office worked out according to an agreed formula. Subject to finances being available, The Ombudsman can establish his own operational priorities, administrative, financial and human resource management systems. These arrangements allow The Ombudsman to accumulate savings, to manage and to invest the reserves thus accumulated. The Ombudsman is also able to recruit staff to replace, in phases, seconded civil servants serving in the office.

Reaching out to the Public

To be an effective representative of the people, it is important for the public to know about the Office and what it does. Hence, we have a diversified publicity programme. From experience, the media is the most effective means of publicity. We have produced short videos explaining the work of the Office and its services. Apart from advertising on local TV and radio channels, we also use road shows, roving exhibitions and the Mass Transit Railway's information panels to maintain public awareness of our institution.

For public education, we maintain a Resource Centre housing a rich collection of ombudsman - related literature. Through individual and community group visits, we promote better understanding of our work. As we do not have sub - offices in districts, we try to reach out to complainants by continuing liaison with community organizations and others who are likely to come across cases in which The Ombudsman may have an interest. Hence we have organized briefings and workshops for District Councillors, other district based organizations and social services providers, aides of Legislative Councillors and Justices of the Peace, all of whom could help to channel complaints to the Office.

Nature of Work

What then is the nature of our work? In the beginning, the ombudsman had one function only and that was to investigate complaints of maladministration referred to him by Legislative Councillors. Since then, the Ombudsman's function was expanded in 1994 to allow direct public access and to initiate direct investigations into maladministration in the absence of specific complaints.

In the 1990s, as part of its commitment to greater openness and accountability, the Hong Kong Government introduced an administrative Code of Practice on Access to Information to give the public right of access to documents and information held by Government. The Ombudsman is empowered to investigate complaints on non-compliance with the Code, even in respect of government departments previously not covered by the Ombudsman Ordinance, namely the Police, the Auxiliary Police, ICAC and the Secretariats of the Independent Police Complaints Council and the Public Service Commission.

While the Ombudsman's job should primarily be investigations, whether acting on complaints or on the ombudsman's own initiative, reality is somewhat different. Requests for investigation of personal grievances against administrative actions constitute the smaller proportion of my office's work. We have noticed that many complaints are lodged by citizens intent on getting their pound of flesh from public servants and not really to seek protection from maladministration by public institutions. Regrettably, some complainants even have their own agenda and "use" my Office to press for their own desired outcome.

By far, the most frequent demands on my Office are inquiries and requests for the provision of Government services. In reality, this means that increasingly we have to depart from the classical ombudsman mode of

being concerned only with how Government provides services. Given the diverse nature of the complaints we receive, a single pattern of response is clearly inadequate. Often, my Office has to advise on where to get what services. In this context, I see the role of ombudsman evolving, in some ways, as counselor, social worker as well as complaints adjudicator.

Given the ombudsman's primary function of investigating complaints, we always start each complaint in an investigator mode. If prima facie evidence of maladministration is established, we move into an advocate's role. But in the great majority of cases, we may, depending on the nature of the matter being complained about and the personalities of the complainants, assume the roles of a mediator, a negotiator or a peacemaker.

This has prompted us to seek amendment to The Ombudsman Ordinance last year to adopt mediation as a tool in our work. Mediation may only be appropriate in cases where no maladministration is evident. It also presupposes that both the complainant and the government department concerned are willing to resolve their dispute in a conciliatory manner. But not all cases in which we attempted mediation had been successful. But so far, the feedback is encouraging. In many cases, both complainants and departments feel that they can leave emotions behind and to tackle the problem from the same, and not opposite, sides. For the ombudsman's staff, although mediation involves the same amount of preparatory work, it has the merits of less paper work, is more expedient and is definitely more satisfying when a case is successfully mediated.

Conclusion

This is where I am now, in the development of my office. I have chosen to focus on just a few issues that are important to the ombudsman system. By recounting the development of the ombudsman system in Hong Kong, I hope this would stimulate an exchange of experience here today. Thank you.

The Role of Ombudsman in Improving Public Administration – The Commission Against Corruption (CCAC)'s Experience

By Tou Wai Fong *

The Commission Against Corruption (CCAC) of Macao undertakes the mission of promoting the protection of rights, freedoms, safeguards and legitimate interests of the individuals, and ensuring, through formal or informal means, that the exercise of public powers abides by criteria of justice, legality and efficiency (Article 3 of the Organizational Law¹).

In today's presentation, we wish to introduce to you the work of the CCAC's Ombudsman Bureau in improving the public administration.

We will explain (and exemplify) the different methods of intervention adopted by the CCAC's Investigation Department and Research & Examination Department, both are sub-units of the Ombudsman Bureau, and how they contribute to the improvement of the government departments and its officers, rules, regulations and procedures at work...etc.

1. Individual Intervention

1.1 Informal Approach

In order to perform the duty of eliminating the instances of *maladministration*, the CCAC adopts the methods of informal approach. We are going to exemplify a real-life case below:

* Deputy Commissioner, Commission Against Corruption, Macao SAR.

In May 2001, a lawyer lodged a complaint with the CCAC. In the complaint letter, he sought the Commission's intervention in justifying the legality of the information provided by a government department concerning the time limit for the submission of his mandate. The sticking point of the issue laid in the application of the new law in the process of the trademark registration. The CCAC considered the government department's interpretation of the new law incorrect. In brief, the new law should be applied as long as the process of the trademark registrations was initiated under the new procedural law. Therefore, the Commission held a meeting with the representatives of the department concerned, in which the problem was identified and solved.

In many cases, the informal contact with the administration authorities is successful because it provides an opportune answer to the complainant's immediate problem. Through dialoguing with the CCAC, the administration authorities can have a better understand to, and thus consider, the respective reasons, so that the procedures in question can be rectified promptly. In this way, the conflicts arise in the cases can be resolved effectively, and at the same time the Ombudsman Bureau's role as a mediator magnified.

1.2 Proactive Intervention

In other cases, a more proactive intervention is recommended. Through various channels like newspaper reports, publications in the Official Gazette... etc., the CCAC obtains information with regards to different aspects. Upon discovery of problems such as illegal procedures, unjust decisions, unreasonable delays... etc., the CCAC will take the initiative to contact the administrative authority for follow - up.

One example is that in February of the current year, a government department published a recruitment notice in the newspapers. However, the requirements published did not comply with Article 97 of the Basic

Law of the Macao Special Administrative Region (SAR), which stipulates that public servants serving in the Macao SAR must be permanent residents of the Region². In order to correct the aforementioned notice, the Commission informed the related department of the mistake. The notice was corrected in the following day.

1.3 Referral of Complaints

To resolve conflicts effectively, the Commission may refer a complaint to the department concerned with the complainant's consent. After the referral, the CCAC will follow – up with the case to see if the department's handling method or solution can answer the complainant's needs. If the solution is appropriate and the rights and legitimate interests of the complainant are protected, the case will be regarded as settled and thus archived. On the contrary, if the solution is unreasonable or unfair, the Commission will proceed with formal investigation and issue recommendation whenever necessary.

Below is a case concerning disciplinary action. A public servant complained that his superior punished him for his impoliteness by making him stand for several hours without any break for lunch or rest. However, no formal disciplinary procedures have been initiated. Despite the significance of the case, the Commission deemed it more proper and effective for the persons – in – charge of the department concerned to resolve it, on the ground that the case involved the department's internal human resource management. After the case is referred, the department concerned conducted an internal investigation and concluded that the complainant's improper behaviour towards his superior could not be substantiated. An oral warning was given to the superior for having applied an inhumane punishment.

1.4 Intervention through Recommendation

The most relevant power of the ombudsman is issuing recommendations to the administrative authority, which is a traditional and intrinsic

prerogative of the ombudsman.

The Commission will issue a recommendation under the following circumstances: when it is still possible to correct (or at least minimize) the violation of the citizens' rights; when there is legal but unreasonable, unfair or untimely decision; when it is necessary to defend the legitimate interest or expectation of the complainant while informal approach is not appropriate to rectify the error³.

The following example may be used to further explain the method:

In August 2001, a public servant lodged a complaint with the CCAC about an internal regulation issued by his department, obliging the staff to compensate their absence for medical consultation by annual leave. The regulation stipulated that when the hours of absence for medical consultation accumulated to a full - day working hours, the department would make a corresponding deduction in the staff's annual leave.

In fact, the case under consideration involved problems arising from the interpretation of the law governing public servants. The CCAC considered the internal regulation contradictory with the spirit of the aforesaid law, i.e., offsetting the annual leave for any reason on a discretionary basis was not permissible. In addition, it was an obligation for the department to grant and the public servant to enjoy at least 10 days of the annual leave. In order to gain the related department's understanding of the *mens legislatoris* and reason of the CCAC's intervention, the Commission adopted a formal and written approach (in the form of a recommendation) to convey its legal opinion to the department concerned. The CCAC considered informal approach an inappropriate way to make the relevant department revoke the said internal regulation, because such a revocation was the objective of the recommendation. In the end, the recommendation was accepted and implemented.

In fact, the approach of intervention through recommendation has

been very effective. More than 90% of the recommendations issued last year have been accepted by the departments concerned. Nevertheless, the public service recognizes the value of the informal approach and referral of complaints as an effective means to eliminate bureaucracy and as a friendly way to redress grievances⁴.

2. Systematic Intervention

2.1 Research & Examination on the Operations of the Government Departments

This method of intervention is adopted by the CCAC upon request of the government departments for in – depth research or analysis of their internal operational procedures. Through co – operating with the administration authorities to carry out operational research and examination, the CCAC aims to identify practical solutions for legal or procedural problems, to prevent corruption⁵ or to urge for a solution to the recurring complaints. Usually, the research and examination is undertaken by a joint working group (members include officers of the Commission and the department(s) concerned). When information or data have been collected and the internal operational procedures have been analyzed, the working group will draw up suggestions for improvement, which will be approved for implementation by consensus.

Last year, the Research & Examination Department of the CCAC conducted, in co – operation with the Legal Affairs Bureau, a research and examination programme on the operational procedures of the public notaries and registries⁶. On – site visits to the departments were made to further understand their routines and operational procedures. Having finished the relevant research and studies, the working group agreed on the 13 suggestions drafted, which aimed at improving the staff's performance of duties (e.g. through continuous staff training), promoting the implementation

of “one – stop service”, improving the management of the information systems and monitor of the data input procedures, adjusting the information supply procedures to the public... etc.

In 2001, another research was conducted in co – operation with the Health Bureau. The targets of the research were the private pharmacies and the government hospital pharmacies. The aim was to enhance transparency of their operational procedures. Regarding the private pharmacies, the research covered the practices of the pharmaceutical profession, monitor of the related activities, issue of licences, punishment for the violation of regulations and execution of the punishment, agreements on the supply of drugs (e. g. requirements for being a supplier, payment procedure of medical prescription... etc.). As regards the government hospital pharmacies, the research focused on the purchasing procedures of medical products for hospital (in particular the public tender procedures, criteria laid out in the restricted tender, payment formalities), the operation of the central drugs storehouse (included stock – taking and inventory level of drugs) ...etc. Eventually, 112 suggestions were proposed for improvement.

The CCAC’s function in perfecting the internal operations of the government departments can be seen through the above research and examination jobs. This kind of co – operation is also recognized by the related departments and their staff, and many of the suggestions have been implemented accordingly.

2.2 Research Projects

In additional to the aforementioned research on the operations of the government departments, the CCAC also conducts research projects focused on two kinds of phenomena: a) situation in which recommendations have been made repeatedly concerning certain problems, while the recommendations are accepted, they are not implemented by the relevant government departments; b) situation in which there are loopholes, contradictions

and/or misinterpretation of the laws or regulations.

In 2001, the CCAC undertook a research project on the government procurement system. Ever since the establishment of the former High Commission Against Corruption and Administrative Illegality in 1992, 11 recommendations have been issued to the different government departments and their supervisory entities. After studying these recommendations and the relevant cases, the CCAC concluded that the sticking points of the problem were misunderstanding of the respective laws, as well as doubts and ambiguities in the interpretation of the laws. Moreover, since the law governing the government procurement has been implementing for 17 years, it has become deficient and obsolete, especially when it was linked to the creditability and accountability of the government.

The aforesaid research project required the co-operation from a number of government departments. Besides requesting the departments to provide us with files about public tender and restricted tender, the CCAC also held a meeting with the representatives of the departments that conducted their own procurement of goods and with the representatives of the Commission of Audit and of the Consumer Counsel. On the other hand, we also consulted the Government Supplies Department, Hong Kong and the Independent Commission Against Corruption, Hong Kong, as well as the relative laws and regulations of the neighbouring countries or regions and the relevant international agreements (in particular the World Trade Organization Agreement on Government Procurement).

Upon completion of the research project, the CCAC presented a report to the Chief Executive, suggesting the enactment of a new law so as to perfect and clarify the procurement procedures, particularly, to draw out clear regulations governing public contracts, to treat local or foreign suppliers fairly, to avoid making reference to the trademarks or trade names in purchase, as well as to promote an open and fair competition.

3. Conclusion

As a final word, we would like to present to you some supplementary notes. As mentioned in the beginning of this presentation, the CCAC adopts the informal approach as a means to follow – up complaints, contrary to the formal intervention used more often in the past⁷.

The Ombudsman works have been carrying out in Macao for 10 years. Our objectives are to uphold efficiency and reinforce the public's confidence in our works. In the course of time, the process of receiving complaints has been changed, so have the investigation techniques and procedures. With these changes, the CCAC's function as an ombudsman can be better performed, so that unsuitable conduct of the administrative departments can be rectified and prevented, and that rights, freedoms and legitimate interests of the individuals be protected. In carrying out its *modus operandi*, the Ombudsman Bureau of the CCAC not only needs to identify the best approach to adopt, but also adheres to the principles of objectivity, impartiality, appropriateness and timeliness.

We believe that co – operation with the administrative departments and trust in their ability to correct their own mistakes will facilitate the exercise of the ombudsman's "persuasion with reasons" in resolving the existing or potential problems.

Here, we would like to quote some words from the speech of Sir John Robertson * :

"The ombudsman operates in a nonadversarial manner and gain moral influence for acceptance of opinions based on integrity of processes, the intellectual logic of reasons supporting the opinion and well established

* Former Chief Ombudsman of New Zealand and former President of the International Ombudsman Institute.

goodwill.

Furthermore, by performing these tasks effectively there is a positive contribution to ethics and integrity of public administration and to the improvement of processes, practices, policies and even of legislation, all of which impact on the way a government does business with the people. Ombudsmen everywhere are, as a result of investigations, tidying up governments' processes, not only because their recommendations are accepted but also by undertaking own - initiative systematic investigations where are concerned that current practices are unreasonable and causing too many complaints or impacting unfairly on specifics groups of people".⁸

It is a fact that the interactive partnership between the CCAC and the administrative authority is a good yardstick to appraise whether the Ombudsman Bureau performs well its duties, especially its preventive function. Through prevention, we may help bettering the management pattern of the public service, achieving a good operational practice, as well as perfecting the integrity and ethics of the public administration.

References

- (1) Law no.10/2000 of 14th August.
- (2) See Article 24 of the Basic Law of the Macao SAR for the definition of "permanent resident".
- (3) For example, when it is necessary to explain some legal or technical issues in a complicated case.
- (4) Sometimes, formal investigation may bring about negative impact in the public service. For instance, it may cause suspicion among staff.
- (5) The systematic intervention is regarded as an effective measure to prevent corrupt practices or frauds committed by public servants. It is also one of the main duties of the Research & Examination Department (see Article 22, no.1(1) of the CCAC's Administrative Regulation).
- (6) The research and examination work included on - site visits to the four Reg-

istries(Real Estate Registry, Commerce and Automobile Registry, Marriages and Deaths Registry, and Births Registry)and the three Public Notaries(First Office, Second Office and Islands Office) .

(7) In the past, the usual flow of intervention was: receipt of complaint – case commencement – issue of recommendation(when evidence was sufficient) . Nevertheless, we value the significance of this kind of formal intervention (i. e. intervention through recommendations) . It is because the government departments can refer to the recommendations as guidelines when performing their duties .

(8) “The Ombudsman around the World”, a paper selected from the VIth IOI Conference, Buenos Aires, 1996, published in the International Ombudsman Yearbook, IOI, Volume 2, 1998, page 117 .