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# Research on People-oriented Administrative Legislation

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**Abstract:** Since the 18th National Congress of the Communist Party of China (CPC), the people-oriented concept has become the guiding ideology of the whole party and has penetrated all aspects of national governance, becoming a major policy in China. As an administrative legislative act with both legislative and administrative attributes, it is necessary to adhere to the principle of being people-oriented. According to the nature of administrative legislation and relevant laws, it is necessary to establish a people-centered administrative and legislative system.

**Keywords:** People-oriented; Administrative Legislation; Principle

## 1. THE CORE CONCEPT OF PEOPLE-ORIENTED

Adhering to the people-oriented principle is the fundamental stance and core content of Xi Jinping's socialism with Chinese characteristics in the new era. This idea was first proposed at the 18th National Congress of the CPC and gradually developed. Xi Jinping expressed his core values in a series of meetings. At the press conference of the Standing Committee of the Political Bureau of the 18th CPC Central Committee in 2012, Xi Jinping clearly stated, "The aspiration of the people for a better life is our goal." In 2013, Xi Jinping pointed out in his speech at the first session of the 12th National People's Congress, "The Chinese Dream is ultimately the dream of the people. It must rely on the people to achieve this goal, and it must continue to benefit the people." Taking the people's aspirations for a better life as the party's goal and the realization of the Chinese Dream also requires the help of the people clearly reflects the connotation of the people-oriented thought. At the Fifth Plenary Session of the 18th CPC Central Committee, Xi Jinping formally proposed to adhere to the people-oriented thought, and at the 19th National Congress of the CPC held in 2017, he elevated the people-oriented thought to a basic principle of national governance. The 19th National Congress of the CPC pointed out: "The people are the creators of history and the fundamental force that determines the party and the country's future and destiny. Adhere to the principal position of the people, adhere to the party's purpose of serving the public wholeheartedly, implement the party's mass line in all aspects of party activities, govern the country with the people's aspirations for a better life as the goal,

and rely on the people to create history [1]. This is another major breakthrough in the party's governance method of serving the people wholeheartedly and putting the people first. The people-oriented thought that has emerged has become a guide to action for party members and cadres at all levels and various tasks under the new historical conditions.

Adhering to the people-oriented concept of the party's governance should be elevated to the national will through legal procedures and become part of the legal system. The policy of the ruling party is closely related to the law, and the economic basis, guiding ideology, basic spirit, and historical mission of the policy and legal basis are basically the same [2]. In China, the constitution and laws determine the leadership of the CPC, and the party realizes this leadership through policies. With the construction of a socialist country governed by law, China needs to gradually transition from relying on party policies to emphasizing the rule of law, governing the country by law, and administering according to law. Therefore, as an indispensable part of our country's legislative work, administrative legislation should implement and consolidate the guiding ideology of being people-oriented.

## 2. ADMINISTRATIVE LEGISLATION SHOULD FOLLOW THE PEOPLE-ORIENTED PRINCIPLE

The establishment of a rule-of-law country in China is later than that of Western developed countries, and the construction of the rule of law is relatively weak. However, China's economic and social development is very rapid. As for the needs of administrative legislation, the Constitution of the People's Republic of China and the Legislation Law of the People's Republic of China stipulate administrative legislation. In our country, administrative legislation includes both broad and narrow meanings. The broad sense of administrative legislation refers to the act of administrative organs formulating all administrative norms, while the narrow sense of administrative legislation only refers to the provisions of the constitution, legislation law, administrative regulations, rules, and procedures. The State Council departments formulate departmental regulations, and provincial governments and district (city) governments formulate local regulations. This article focuses on the narrow sense of administrative legislation. In the process of administrative legislation, it is necessary to be people-oriented,

reflecting the principal position of the people, which is manifested in the essential requirements of administrative legislation to be people-centered and the active participation of the public in administrative legislation.

(1) Legislative and administrative nature of administrative legislation

Since administrative legislation is legislative activity conducted by specific administrative organs, it is different from ordinary administrative law enforcement and pure legislative acts of legislative organs [3]. That is to say, administrative legislation has both legislative and administrative attributes.

The legislative nature of administrative legislation is manifested in the following aspects. Firstly, dynamic administrative legislation is the act of administrative organs representing public power to formulate social norms in the name of the state. The procedure is similar to that of legislative organs, including project establishment, drafting, review, decision-making, promulgation, and interpretation. Second, static administrative legislation, whose rules include assumptions, behavioral patterns, and legal consequences, is enforced by the state. Third, like legislative organ legislation, administrative legislation is part of China's unified multi-level legislative system. Legislation should not conflict with higher-level laws and should maintain the unity of the legal system. Finally, in relation to society, legislation should serve social governance, meet social needs, and strive to form a good interactive relationship with social development, and administrative legislation is no exception. In short, administrative legislation not only resembles legislative organ legislation in procedure but also, as a legal norm, should meet the general requirements of law, namely regulatory requirements, institutional requirements, and social requirements.

The administrative nature of administrative legislation is mainly manifested in three aspects: subject, nature, and purpose. The subject of administrative legislation is administrative organs, including the State Council and its departments, provincial people's governments, and district and city people's governments. The nature of administrative legislation is administrative management activities, which are generated and operated around administrative management needs. The purpose of administrative legislation is to perform the functions of administrative organs, and its essence is abstract administrative behavior. The subject of administrative legislation is the executive organ of the power organ, whose duty is to enforce the law and superior laws. Administrative legislation is often to refine laws and higher laws, improve their operability, and bring convenience to the implementation of higher laws.

Since administrative legislation has both legislative and administrative attributes, it must conform to the principle system of legislation and meet the relevant

requirements of administrative activities. This also conforms to the people-centered idea. Article 2 of the Constitution stipulates that all power of the People's Republic of China belongs to the people. The people manage state affairs, economic and cultural undertakings, and social affairs through various channels and forms [4]. This is a specific embodiment of the people-oriented thought of the Constitution. This is also the guiding ideology that the state must resolutely implement in all aspects. Of course, in the process of administrative legislation, it is also necessary to comply with Article 5 of the Legislation Law of the People's Republic of China, which stipulates that legislation should reflect the will of the people and promote socialist democracy. This provision stipulates that in the process of legislating the country, the will of the people should be adhered to, and the needs of the people should be taken as the purpose and principle of legislation [5]. Of course, this also requires that administrative legislation must implement this basic principle and take the interests of the people as the benchmark. As an administrative activity, administrative legislation must adhere to the basic principles and positions of administrative law, and must adhere to the principles of administrative legality, administrative balance, and administrative justice. The principle of administrative legality mainly requires compliance with superior laws and relevant legal provisions in the process of administrative legislation, adherence to legal reservation and legal priority. Within the scope of the national legal order, some matters must be entirely managed by the legislator, and administrative organs must not make regulations on their behalf.

As an administrative activity, administrative legislation must adhere to the basic principles and positions of administrative law, and must adhere to administrative legality, administrative balance, and administrative justice [6]. The principle of administrative legality mainly requires compliance with superior laws and relevant legal provisions in the process of administrative legislation, and adherence to legal reservation and legal priority [7].

Within the scope of the national legal order, some matters must be entirely regulated by the legislator, and administrative organs must not make regulations on their behalf. Article 3 of the Regulations on the Procedures for the Formulation of Administrative Regulations clearly stipulates: In formulating regulations, it is necessary to implement the party's lines, principles, policies, and decision-making deployments, follow the legislative principles established by the Legislation Law, and comply with the provisions of the Constitution, laws, administrative regulations, and other superior laws. Departmental regulations must not set standards that infringe on the rights of citizens, legal persons, and other organizations or increase their obligations without a basis in law or administrative regulations,

decisions, and orders of the State Council, nor can they increase the powers of the department or reduce its statutory duties. Local government regulations must not set standards that infringe on the rights of citizens, legal persons, and other organizations or increase their obligations without a basis in law, administrative regulations, and local regulations. Legal reservation strictly retains provisions, strictly distinguishing between national legislative power and administrative legislative power [8]. Its fundamental purpose is to ensure the supremacy of national legislative power and the matters reserved by law. Administrative organs must not arbitrarily make their own regulations to prevent the self-expansion of administrative legislative power.

Law has a priority position over administrative legislation, namely administrative regulations and rules, which is the priority of law. Law ultimately has the power to regulate and adjudicate administrative legislative acts, and is the ultimate guide and sole standard for administrative legislative acts. In short, both legal reservation and legal priority must be strictly followed in the process of administrative legislation to prevent the extreme expansion of administrative legislative power and damage to the rights of the people. Therefore, in this sense, administrative legislation must also be people-oriented.

The principle of administrative balance refers to adhering to substantive justice in the process of administrative legislation, including the three sub-principles of equal treatment, prohibition of excessive measures, and protection of trust. In the legislative process, it is necessary to adhere to the principle of equality, treat everyone equally, oppose discrimination, choose a means absolutely necessary for achieving the public interest and minimizing the restriction or damage to the interests of the parties, to protect the interests of the people, while administrative legislation must not arbitrarily revoke or abolish a certain act; otherwise, the legitimate interests of the parties must be reasonably compensated. It can be seen that adhering to the principle of balance in the process of administrative legislation is based on the principle of protecting the interests of the people, and administration is carried out under the principle of minimal damage. The administrative power of administrative organs is greatly restricted to protect the interests of the people. Otherwise, it must be compensated. Judicial administration mainly includes public participation and the principle of openness in the administrative legislative process.

In summary, from the legislative and administrative attributes of administrative legislation, it can be seen that administrative legislation should adhere to the people-oriented principle, adhere to the interests of the people, rather than focus on harming the interests of the people.

(2) Administrative legislation must adhere to public participation

Theoretically, the effectiveness of public participation in administrative legislation is diverse. By supervising the legislative process, it prevents the abuse of administrative legislative power, realizes the expression of a wide range of effective interests, ensures the mutual coordination of multiple interests, and improves the quality and effectiveness of administrative legislation. However, in terms of substantive purpose, public participation in administrative legislation is a concrete manifestation of people expressing their demands, participating in national management activities, actively exercising their rights, and protecting their own interests. This is also a vivid example of administrative legislation that must reflect the people-oriented principle. As the profound significance of the status of the head of the family, the specific significance of public participation in administrative legislation is reflected in the following aspects:

Public participation in administrative legislation helps to improve the political legitimacy of administrative legislation and enhance the social benefits of administrative legislation. Democracy is not only a decision-making mechanism but also a management mechanism. In addition to decision-making and management through democratic elections, people should also participate in expressing their wishes, controlling, and influencing the government's decision-making management. In administrative legislation, due to the non-elective nature of administrative organs, the organization of administrative organ leaders is responsible for the organization, and administrative organs focus on the administrative efficiency of working methods, which further distances administrative legislation from democracy. Public participation in administrative legislation adapts to the trend of diversification of administrative power, non-regulation of administrative behavior, and negotiation of administrative procedures, making administrative legislation more political and legitimate, and more easily trusted by the managed. Administrative legislation is more effective. In this sense, public participation in administrative legislation may reduce administrative efficiency on a case-by-case basis, but in the long run, it will improve the social benefits of administrative legislation.

Public participation in administrative legislation helps protect citizens' basic rights, prevent the abuse of administrative power, and ensure the fairness and rationality of administrative legislation. To protect citizens' basic rights, it is first required to grant individuals the right to resist coercion, and the minimum requirement is the principle of natural justice, which requires that the exercise of power must listen to the opinions of others.

Public participation in administrative legislation is the procedure of “listening to the opinions of interested parties.” Due to the relative strength of power, it particularly emphasizes regulating power, protecting rights, emphasizing the responsibility of public power, and emphasizing the relief of violated private rights. The significant practical significance of public participation in administrative legislation is to make the operation of administrative power go from “black box operation” to openness, emphasizing the negotiation between the administrative subject and the public in the legislative process, to limit the abuse of administrative power and ensure the fairness of administrative legislation. At the same time, public participation in administrative legislation provides practical and feasible standards for parliamentary organs and judicial organs to supervise and control administrative legislative power and redress citizens’ rights, laying the foundation for controlling administrative legislation.

The long-term significance of public participation in administrative legislation is to promote the emergence and realization of the rule of law. The order of the rule of law is not created by humans, but by the activities of social subjects. This is the value of freedom for the rule of law. In the process of maximizing their own interests, social subjects effectively use resources that others do not possess, promote social progress, and gradually form a stable spontaneous order. Public participation in administrative legislation leads to the beginning of the rule of law at the legislative stage.

The above theoretically discusses the positive significance of public participation in administrative legislation. From the perspective of China’s legislative practice, there is also a legal basis. Article 5 of the Legislation Law of the People’s Republic of China stipulates that legislation should be open to the public, and people should participate in legislative activities through various channels. Article 67 stipulates that in the process of drafting administrative regulations, the opinions of relevant organs, organizations, representatives of the National People’s Congress, and the public should be widely listened to. Opinions can be solicited in various forms, such as symposiums, demonstration meetings, and hearings. Drafts of administrative regulations should be published to solicit opinions from the society, except for decisions made by the State Council. Article 13 of the Regulations on the Procedures for the Formulation of Administrative Regulations stipulates: In drafting administrative regulations, the drafting department should widely listen to the opinions of relevant organs, organizations, and citizens. Issues that are of widespread public concern, hotspots and difficulties, prominent contradictions encountered in economic and social development, infringing on the rights of citizens, legal persons, and other organizations or increasing their obligations,

and issues that have a significant impact on the public, such as major interests, should be discussed and debated. Opinions can be solicited in various forms, such as symposiums, demonstration meetings, and hearings. Similar provisions are made in Article 15 of the Regulations on the Formulation of Rules. Therefore, both theoretically and in actual legal provisions, public participation in administrative legislation has practical significance and legal basis, and the more important significance is sublimated behind it, that is, public participation in administrative legislation reflects the people-oriented principle. The people-centered requirement calls for the people to be participants, evaluators, and practitioners. People fully express their opinions in the process of participating in administrative legislation, have the right to make suggestions on problems that arise in the implementation of legislation, maintain the dignity of the law, and it goes without saying that the implementation of the law, the establishment of a rule of law society, and the realization of the rule of law.

### 3. CONCLUSION

The people-oriented development concept is a thought with profound scientific significance proposed by a new generation of party leaders represented by General Secretary Xi Jinping on the basis of the previous generation’s experience. This is also the party’s policy that must be implemented for China’s future development. Administrative legislative acts, both legislative and administrative, must adhere to the people-oriented principle, and behind this, in addition to profound theoretical significance, there are also practical legal bases. Whether it is a country, a political party, or a society, the importance of the people must be valued. The people are the creators of history and an important force that no one can replace. Therefore, it is far from enough to adhere to the people-oriented principle in administrative legislation. The interests of the people must be supreme in all aspects of the rule of law government, rule of law development, administrative supervision, and information disclosure. We must create a rule of law and harmonious society that satisfies the people.

### REFERENCES

- [1]See Xi Jinping’s Series of Important Speeches Reader, Propaganda Department of the CPC Central Committee, 2014 edition.
- [2]Zhang Wenxian. Jurisprudence. Higher Education Press, 2011, p. 297.
- [3]Ying Songnian. Administrative Law and Administrative Litigation Law. Law Press, 2009, p. 127.
- [4]Constitution of the People’s Republic of China (amended in 2018).
- [5]Legislation Law of the People’s Republic of China (Full Text).



[6]Li Mu. Administrative Law. Fangzheng Publishing House, 2006, p. 62.  
[7]Chen Xinmin. Introduction to Administrative Law.

Sanming Book Company, 1997, p. 52.  
[8]Regulations on the Procedures for the Formulation of Administrative Regulations (revised in 2017).