

New Development of Administrative Prosecutorial Supervision with Chinese Characteristics in the New Era

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Abstract: The initiation of the reform of the State supervision system and the deepening of the reform of the judicial system are the new elements that have led to the innovative development of administrative supervision. People-centered, win-win, precise supervision, penetrating supervision, integration of supervision and case handling, and extensive data legal supervision have gradually established the new concepts of administrative supervision in the new era. At the same time, administrative supervision in the new era has also been updated to promote the substantive settlement of administrative disputes through the legal supervision of administrative litigation activities and to supervise administrative offenses. Accordingly, the functions of administrative procuratorial supervision have been expanded to include litigation supervision and relief, administrative supervision, unification of the rule of law, protection of the public interest, and national governance.

Keywords: Administrative Prosecutorial Supervision, New Elements, New Concepts, New Tasks, New Functions.

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1 NEW ELEMENTS TRIGGERING NEW DEVELOPMENTS IN THE SUPERVISION OF ADMINISTRATIVE PROSECUTION IN THE NEW ERA

The development of anything results from the joint action of internal and external factors. Internal factors are the basis for the development of things; external factors are the external conditions that promote the development of things. According to the author's observation, the two most important external factors that have driven the growth of administrative inspection and supervision to date are the reform of the national inspection system and the reform of the national judicial system.

1.1 BEGINNING OF THE REFORM OF THE STATE SUPERVISION SYSTEM

Before the reform of the State supervision system, the power to investigate job-related crimes, together with the power to authorize and decide on arrests, the power to prosecute, and the power to supervise litigation, were the core competencies of the procuratorial authorities. In contrast, the reform of the supervision system has transferred to the Supervisory Commission the relevant functions of the People's Procuratorate's departments responsible for investigating and dealing with corruption and bribery,

dereliction of duty, and the prevention of job-related crimes, which has led to a significant change in the powers of the procuratorate. On the one hand, the transfer of the right to investigate job-related crimes has given the procuratorial organs a new lease of life, and they are no longer tired of the complicated power struggle over job-related crimes, and the administrative attributes of the procuratorial organs have significantly been reduced, and the characteristics of legal supervision have been enhanced; on the other hand, the divestment of the right to investigate job-related crimes has made the procuratorial organs, which have been focusing on the right to prosecute criminal offenses since the 80s of the last century, lose their necessary rigidity, and forced them to rethink their primary owners. On the other hand, the divestment of the power of investigating crimes has made the procuratorial organs lose their necessary rigid support since the 1980s, forcing them to rethink their primary responsibilities and begin to look for new bases of power to support the positioning of their nature as legal supervision organs. Because our country's procuratorial organs do not have the power to deal with the object of supervision directly, its legal supervision needs to be supported by the right to investigate crimes on duty; the loss of this support will lead to further softening and weakening of litigation supervision. Some members of the practical community even believe that the divestment of the power to investigate job-related crimes has made the power of the procuratorate a de facto power pattern of the power to prosecute + the power to supervise litigation and that the procuratorate should, therefore, be positioned as the State's prosecuting and litigation

supervisory authority. However, some scholars have pointed out that exercising the power to investigate job-related crimes is not originally a power supervision but a power check and balance, and therefore, the integration of functions will remain the constitutional positioning of the procuratorate as a legal supervisory authority. History and practice have chosen the latter, and the subsequent reform of the prosecution service has been a matter of fact. Poor is change, change is through. To truly realize the constitutional position and absolute authority of the "legal supervisory authority," the procuratorial authorities need to find "strong support" and "effective measures" from the Constitution and the law, To take the path of internal development and, based on further strengthening the supervision of litigation, to gradually expand its supervisory functions beyond litigation [1]. As far as administrative procuratorial supervision is concerned, it consists of three aspects: legal supervision of administrative litigation activities, substantive resolution of administrative disputes, and procuratorial supervision of administrative violations.

1.2 DEEPENING THE REFORM OF THE NATIONAL JUDICIAL SYSTEM

Under the requirement of "deepening the comprehensive and complementary reform of the judicial system," the results of the ten years of judicial system reform in the new era have been evident to all. Still, the problems of balance of powers and responsibilities, supervision, and control, as well as the problem of too many cases and too few people, need to improve judicial practice. Among them, the issue of supervision and control is the most prominent. One of the overall goals of deepening procuratorial reform is to "improve the system and mechanism by which procuratorial organs and other political and legal organs cooperate and are constrained by the law, to improve the scope, procedures, and measures of legal supervision, and to give full play to their roles in the system of constraints on and supervision of the operation of power." [8] The political, social, and legal dimensions of procuratorial power play an essential role in ensuring the uniform and correct implementation of national laws, safeguarding the objective position of "guardian of the law" and realizing the judicialization of national governance, and, in practice, it is constantly enriched and developed along with the continuous improvement and innovation of the modern national governance system; however, theoretically, it is not a typical judicial power and not an administrative power. However, theoretically, how the power form, which is neither typical judicial nor administrative power, should be positioned is always in a vague and ambiguous state. [9] To look at the problem from another angle, this fuzzy StateState, in fact, also for the development of the procuratorial organs and procuratorial work to retain a certain amount of space, and this embarrassing situation is to promote the inexhaustible power of the reform of the procuratorate. National judicial system reform is to encourage the development of the external engine of the procuratorial cause,

strengthen the legal supervision of the procuratorial organs is the national judicial system reform to deepen the inevitable requirements of the administrative prosecution to enhance the legal supervision of the procuratorial organs of the vital content. From improving the mechanism for linking administrative law enforcement and criminal justice to perfecting the system of judicial oversight of administrative coercive measures involving citizens' personal and property rights and interests to carrying out particular actions to substantively resolve administrative disputes to exploring the establishment of a sound system of legal supervision of administrative violations, the scope of supervision of administrative procuratorships continues to expand and strengthen as procuratorial reforms are advanced [2].

2 NEW CONCEPT OF ADMINISTRATIVE PROSECUTION SUPERVISION IN THE NEW ERA

2.1 PEOPLE-CENTERED SUPERVISION CONCEPT

The people-centered supervision concept is the essential embodiment of the concept of the rule of law and the concept of justice of socialism with Chinese characteristics, which contains the fundamental position of the prosecution for the people, the primary duty of the trial to protect the people, the primary direction of the prosecution to serve the people, [10] The basis of the enforcement of the prosecution is to serve the people, and the initial mission of the trial is to live up to the people [3]. Administrative procuratorial supervision must take the fundamental interests of the people at large as its starting point, reflect the will and aspirations of the people at large, embody the feelings and requirements of the people at large, and effectively safeguard the interests of the people.

2.2 THE SUPERVISORY CONCEPT OF WIN-WIN, MULTI-WIN, AND ALL-WIN OUTCOMES

The supervisory concept of "win-win, multi-win, and all-win outcomes" was first introduced by the Party Leadership Group of the Supreme People's Procuratorate at the National Seminar for Chief Procurators held in July 2018. Since then, leaders of the Supreme People's Procuratorate have repeatedly emphasized that supervision is not a "zero-sum" game of right versus wrong. Instead, the responsibilities of the supervisory body and the supervised entity are shared, and their goals are aligned—success leads to mutual benefits, while failure results in shared losses. The introduction of this concept has provided clear guidance for the procuratorial organs on how to properly manage the relationship between the supervisor and the supervised [4]. It emphasizes the need to establish a positive and constructive relationship, working together to promote strict law enforcement and impartial justice and uphold social fairness, justice, and the public interest. This concept is particularly significant in the field of

administrative procuratorial supervision. Unlike criminal and civil procuratorial supervision, administrative supervision involves oversight of administrative agencies that exercise state power, the people's courts, and private rights entities. In China, administrative power has the broadest scope, the most profound impact, and the closest connection to the people's daily lives. Therefore, how to manage the relationship with administrative agencies as the supervised entities tests the procuratorial organs' political wisdom and legal expertise. Guided by problem-solving, based on thorough investigation and verification, and with sincere communication to enhance consensus as a prerequisite, the principle of "win-win, multi-win, and all-win outcomes" is pursued. The objective is to "resolve one case and improve governance across the board." Procuratorial officers diligently explain the law and reasoning, comprehensively utilize various legal supervision measures, promptly issue targeted and effective procuratorial recommendations, and supervise and assist administrative agencies in implementing these recommendations [5]. They also focus on the "second half" of case handling, actively promoting and participating in social governance. This approach has become a common understanding among procuratorial officers handling administrative cases.

2.3 THE CONCEPT OF PRECISE SUPERVISION

Precise supervision means that the procuratorial organs, in the supervision of administrative supervision, give priority to selecting typical cases that are innovative and of leading value in terms of judicial philosophy, policy orientation, and application of the law to carry out legal supervision and strive to promote the resolution of problems in judicial philosophy, policy orientation, and application of the law in a field, a place, and a period through the handling of a case. [11] Administrative supervision follows the concept of precise supervision, which is determined by the nature of the object and the subject of supervision itself. On the one hand, as mentioned earlier, administrative supervision involves exercising the administrative power of the administrative organs. However, the supervisor and the supervisee's ultimate goals are the same: to promote the administration of the rule of law and the construction of the rule of law government, but, in the specific objectives or their respective interests concern or divergence, the supervised object is straightforward to fall into the supervision of the prosecution of the achievements of the short-sighted thinking of their problems, the supervision of the trial of resistance or even hostility [6]. Resistance and even hostility, which requires the procuratorial organs in the choice of supervision of the entry point must be stable, accurate, ruthless, not painless, nothing to find things, and can not be awarded a person's handle, fall into the population; on the other hand, as the supervision of the subject of the administrative act is the administrative subject on behalf of the StateState exercising the administrative power to make the legal effect of the behavior of the public law, therefore, the supervision of a specific administrative act is by no means only involves its administrative On the other hand, as the administrative act is the subject of supervision, the

administrative subject on behalf of the StateState exercising the administrative power to make acts with legal effect in public law, therefore, the supervision of an administrative act is by no means only related to its administrative relative and related people, and often involves an industry, a field, a kind of behavior, this situation not only raises the standard of the procuratorate to deal with a case, and requires that it must get rid of the case on the case in the criminal prosecution of the thinking of the case, so as to do a case to do a three, and to touch on a kind of generalization, to receive to deal with a case, and to pull a string, and to rule a piece of the effect; Objectively, also for the procuratorial organs to achieve the impact of the case provides the necessary conditions. Therefore, the precise supervision of administrative prosecution, first of all, is the precision of the supervision object and the supervision target, that is, the supervision object and the supervision target must be selected in the judicial concept, policy orientation, legal application and other aspects of innovation, leading value; secondly, is the precision of the supervision method, that is, the most conducive to alleviate the supervision of the resistance to the supervision of the supervision methods and means to achieve the supervision of the supervision of the purpose, to this end, the procuratorial organs must fully utilize the procuratorate Investigation power, do a good job of investigation and verification, a comprehensive grasp of the facts and evidence in the case, the accurate application of laws and regulations, complete interpretation of the law and reasoning, the proper medicine; once again is the precision of the supervision effect, that is, to follow the case from the individual case handling - class supervision - systematic governance of the case idea, a ring set of rings, step by step gradually expand the case of the radiation and the impact of the case. The third is the precision of the supervisory effect [7].

2.4 THE CONCEPT OF PENETRATING SUPERVISION

Penetrating administrative supervision is neither a particular legal supervision procedure nor a new category of legal supervision, but the administrative supervision function of our country's reflection on the configuration of the administrative supervision function is the practice of administrative litigation supervision faced with the "inverted triangle" and "procedural idling" challenge, is the extension of administrative supervision of administrative litigation supervision of this authority can be divided into four levels. It responds to the challenges of "inverted triangle" and "procedural idleness" in administrative litigation supervision. It is the extension of administrative prosecution to the supervision of administrative litigation, which can be divided into four levels: the first level is the supervision of administrative litigation, which is the supervision of judicial power, and it is the most effective way to protect the lawful rights and interests of citizens, legal persons, and other organizations; the second level is to promote the administration by the law, that is, from the supervision of the

court's administrative trial and enforcement activities, penetrating to the supervision of administrative organs to do the administrative acts; the third level is to resolve administrative disputes, that is, to resolve administrative disputes [8].

The third level is to resolve administrative disputes, i.e., to penetrate from "supervising on supervision" to "resolving social contradictions in supervision," and to penetrate from the passivity of the judiciary to the mobility of administrative supervision; the fourth level is to participate in social governance, i.e., to penetrate from individual cases to class cases, and to change from end-to-end governance to promoting front-end governance. The fourth level is participation in social management, i.e., penetrating from individual to class cases and changing from end-of-pipe to front-end governance. [9,12] Through the penetration of the above four levels, administrative prosecution supervision can integrate litigation supervision with extra-litigation supervision, the formal rule of law with the substantive rule of law, correcting violations of the law by resolving disputes and remedying rights, and individual case supervision with case-based governance, etc., to realize the dual supervision of the court's trial power and the administrative power of the administrative organ, not only to safeguard judicial justice but also to promote the administration of justice according to the law, and to achieve the goal of "one hand on both sides," realizing the functions and values that are difficult to reach in criminal and civil prosecution supervision. "To achieve the function and value of criminal and civil prosecutorial supervision, which is difficult to reach.

2.5 THE CONCEPT OF INTEGRATING SUPERVISION AND CASE HANDLING

Case handling is the primary means for the procuratorial organs to perform their legal supervision duties, but it is also the primary way to show the effectiveness of legal supervision. Whether to serve the party committee and government or the high-quality development of procuratorial work, it will ultimately be implemented in the case. Leaving the case, legal supervision is the source of water, not wood, as if the air can not land. For a long time, the administrative supervision of the number of cases handled by the prosecution is small, small scale, lacks of influence, and the masses need a stronger sense of obtaining widely criticized. This certainly has the number of administrative cases relative to the number of criminal and civil cases for objective reasons. Still, the procuratorial organs for a long time punished lightly, strictly abode by the red line of the narrow litigation supervision, did not dare to step out of the minefield half a step to the administrative organs, and the administrative power did not dare to supervise, but also not good at overseeing the subjective factors at play. In recent years, with the in-depth promotion of prosecutorial reform, the "four major prosecution" comprehensive coordination and full development of the gradual implementation of the administrative supervision of the scope of the administrative

prosecution is no longer confined to the effective administrative decisions and mediation retrial and counter-appeal, the administrative trial procedures and trial personnel violations of the law supervision, backward has been extended to the litigation implementation and administrative supervision of the implementation of the non-litigation, to the middle has been Began to explore the direct supervision of administrative offences, inward has been deepened to the substantive resolution of administrative disputes, outward has been expanded to the class supervision and social governance, but, whether it is the traditional supervision of administrative litigation activities, or the substantive resolution of administrative disputes, administrative non-litigation implementation supervision, or supervision of administrative offences, direct supervision or indirect supervision, individual case supervision or social governance must be case-oriented The more complex, difficult and influential the supervision matters, the more we should insist on handling cases, so that the supervision matters can be handled in cases, and in the process of handling cases, we should give full play to the legal expertise of the procuratorial organs as specialised legal supervisory organs, highlight the comparative advantages of the procuratorial organs in legal supervision, and build up the authority of the procuratorial organs in legal supervision. As the so-called supervision in the case, in the case of supervision, supervision is used to handle the case and collect the effect of supervision.

2.6 THE CONCEPT OF AMPLE DATA LEGAL SUPERVISION

Some scholars have pointed out that in the physical sense, service-oriented government and the rule of law government constitute the two central bodies of modern government, and in the era of information technology and intelligence, in the methodological sense, to build a service-oriented government and the rule of law government needs to be digitized as a method and essential support. The new era of administrative supervision is also in the tide of information technology, intelligence, and big data for the administrative supervision of the "prying" role; both must grasp the opportunity of the times and can not get around the subject of the times. The essence of digital prosecution lies in the integration of digital technology, digital thinking, digital cognition, cultivating digital capabilities and methods, and building the prosecution of digital governance mechanisms and systems through the trial of big data can open the value of the use of the new space to create, and strive to achieve by "twice the effort" "sea of man tactics "to" twice the effort "twice the result" "blue sea empowerment," from the rough "manpower driven" to intensive "data The "data-driven" approach is a leap from the crude "manpower-driven" approach to the intensive "data-driven" approach. Extensive data empowerment is an essential source of clues for administrative prosecutorial supervision cases and a necessary means of improving the quality and efficiency of case handling, as well as a modern and completely new

concept and way of thinking about case handling [10]. Administrative procuratorial supervision must solve the problem of two-skinned business and technology, discover batch supervision clues through extensive data analysis, carry out systematic and in-depth supervision of such cases, find the hidden dangers and difficulties of social governance behind such cases in a more in-depth and precise manner, and contribute to a "high content" procuratorial program based on its functions for cracking governance problems. It also contributes "high-content" procuratorial programs based on its functions to crack governance problems, actively cooperates with relevant departments to improve mechanisms, plug loopholes, and solve problems, and integrate itself into the overall pattern of social governance with a greater degree of participation and contribution.

3 THE NEW TASKS OF ADMINISTRATIVE SUPERVISION IN THE NEW ERA

The key to the rule of law is the government administration according to law; the practice of the rule of law in the new era requires the administrative body to carry out work on the track of the rule of law, but also inevitably requires to strengthen the constraints on the administrative power and supervision. In practice, administrative power covers a wide range; inaction, inaction, slow action, and other administrative chaos are repeated, and there is an urgent need to use the rule of law to regulate scientific control strictly. Administrative supervision is an essential means of promoting administration by the law and advancing the overall deepening of reform. It is also a necessary element of the functioning of procuratorial organs in the new era. Article 2 of the "Rules for the Supervision of Administrative Litigation" clearly defines the tasks of administrative litigation supervision: "to supervise the people's courts in their lawful adjudication and enforcement, to promote administrative agencies' lawful exercise of authority, to uphold judicial fairness and authority, to safeguard national and public interests, to protect the legitimate rights and interests of citizens, legal persons, and other organizations, to facilitate the substantive resolution of administrative disputes, and to ensure the uniform and correct implementation of national laws." The author summarizes the tasks of administrative procuratorial supervision in the new era into the following three key aspects [11].

3.1 "ONE HAND FOR TWO HOUSES" THROUGH LEGAL SUPERVISION OF ADMINISTRATIVE LITIGATION ACTIVITIES

Article 10 of the Administrative Procedure Law, which came into force in 1989, has long made it clear that "the people's procuratorates have the right to exercise legal supervision over administrative proceedings." This position was undoubtedly accurate at the time and even ahead of its

time because the Civil Procedure Law in force used the expression of civil procuratorial supervision to mean legal supervision of the "civil trial activities" of the people's courts. The scope of litigation activities was broader than trial activities, and the relationship between the two was broadly encompassing. However, in practice, due to a variety of subjective and objective reasons, the administrative procuratorate has not thoroughly carried out the powers and functions conferred on it by law, and not only has it failed to achieve full coverage of the supervision of administrative litigation, but also, even in the limited areas of supervision of the decisions in force, the number of cases handled has been too small, and its influence has been minimal. The revised Administrative Procedure Law of 2014 clarified the scope of supervision of administrative litigation activities by procuratorial organs, namely, implementing a whole chain of supervision over the acceptance, trial, adjudication, and execution of administrative cases. The scope of administrative supervision in the new era is more three-dimensional, covering supervision of the filing and acceptance of administrative cases, supervision of trial personnel and violations of trial procedures, supervision of protests against (retrial of) effective judgments (mediation), and supervision of litigation enforcement and administrative non-litigation enforcement. The connotation of supervision is also richer; on the one hand, it supervises the people's court according to the law and fair trial and implementation; on the other hand, litigation supervision indirectly oversees the exercise of administrative power of the administrative organs to promote the administration of administrative organs by the law, strict law enforcement; and ultimately to achieve the safeguard of the national interests and public interests of the community, and the protection of the lawful rights and interests of the citizens, legal persons and other organizations for the purpose. We can summarize this task of supervision as "one hand supporting two families, taking into account both public and private interests."

3.2 PROMOTION OF SUBSTANTIVE SETTLEMENT OF ADMINISTRATIVE DISPUTES

The administrative prosecution work started late and has a thin base. The substantive settlement of administrative disputes, as a new task of the administrative prosecution, is still in the initial stage. There is a process of standardization and improvement within the procuratorate, and there is a process of gradual external recognition. It is true that the procuratorial authorities formally launched the substantive resolution of administrative disputes, beginning with the relevant particular action that was carried out in 2019. However, the procuratorial organs of the administrative litigation legal supervision itself contain supervision and relief dual function; its supervision function need not be repeated, and its relief function is directly aimed at the complaint complainant, that is, administrative procedures in the administrative relative and related people, administrative litigation procedures in the parties, which extends to the

dispute resolution function, because of the parties to the relief and the resolution of administrative disputes are mutually exclusive, only relief in place can substantially resolve administrative disputes; put aside the relief talk about resolution is like a fish in a barrel. Only relief in place can dramatically resolve administrative disputes; put aside the relief talk about resolution, it is tantamount to fish in troubled waters, and the sky is the limit. Subject to the limitations of the boundary between judicial and administrative power, the legality of the review of administrative litigation as a guideline for a long time exposed the function of relief and dispute resolution function needs to be revised. As early as 2009, the court system put forward the proposition of "substantive resolution of disputes"; the revised Administrative Procedure Law of 2014 emphasized "dispute resolution" in its legislative purpose, and the subsequent vigorous governance of the source of the litigation has pushed dispute resolution to the forefront of judicial reform, The subsequent vigorous management of litigation sources has pushed dispute resolution and case settlement in the vanguard of judicial reform. Suppose administrative litigation is the exercise of judicial power by the court to realize the supervision of the operation of administrative control and the relief of the administrative relative (the relevant person). In that case, the administrative litigation supervision activities carried out by the procuratorial authorities are the dual supervision of the court as the supervisor and the administrative organ as the object of supervision, as well as the reopening of the relief of the administrative relative (the relevant person) who has failed in his attempt to seek litigation relief. Behind each effective administrative decision (mediation) supervision, execution supervision trial procedure, and trial personnel violation supervision case, there is often a long list of government information disclosure, administrative reconsideration, and administrative litigation cases, which not only depletes a large amount of administrative and judicial resources, but also undermines the authority of the government's administrative and judicial justice, and triggers the potential risks of social governance. As the last layer of remedial channels, administrative supervision is naturally tasked with the substantive resolution of administrative disputes. Therefore, strictly speaking, the substantive resolution of administrative disputes is not a part of the administrative supervision alongside the supervision of the effective decision, the supervision of the implementation, and the supervision of administrative violations, but is a task necessarily included in the supervision of the above-mentioned administrative supervision. We position the substantive resolution of administrative disputes as a "pull" rather than an "expansion" or "extension."

3.3 PROSECUTORIAL SUPERVISION OF ADMINISTRATIVE VIOLATIONS

Administrative power is characterized by its holistic, continuous, and direct nature and is the strongest, most extensive, and most influential power, as well as the public

power most in need of supervision. Although China's current rule of law supervisory system for the supervision of administrative power (including internal and external supervision) is the most powerful, compared to the characteristics and influence of administrative power, it still needs to be improved. There are still various inadequacies in the supervision of administrative power, so the illegal or improper exercise of administrative power results in damage to national interests, public social interests, and the lawful rights and interests of citizens, legal persons, and other organizations, not only makes it impossible to implement the law correctly, but also may undermine the unity, dignity, and authority of the national legal system, and has become one of the most prominent problems impeding the construction of the rule of law government, the rule of law State and the rule of law society as a whole. In response to this situation, the procuratorial authorities, as the legal supervisory organs of the State, have the sacred duty of safeguarding the correct implementation of the law and maintaining the unity, dignity, and authority of the national legal system and are duty-bound to supervise the operation of administrative power. For a long time in the past, we have been emphasizing the "specialization" of the procuratorial organs as specialized legal supervision organs; the scope of legal supervision of the procuratorial organs is strictly limited to the litigation activities, the supervision of the administrative power is mainly through the administrative litigation activities and the supervision of the implementation of the activities to indirectly realize, to a large extent, give up on the administration of the direct supervision of violations of the law. The scope of legal supervision is strictly limited to litigation activities. However, with the advancement of the construction of the rule of law, the acceleration of the pace of administration by the law, the modernization of the national governance system and governance capacity requires us to build up a full coverage, complete closed-loop, dead-end supervision system for the supervision of the administrative power, in the supervision of the National People's Congress, disciplinary inspection and supervision, auditing supervision, judicial (litigation) supervision and other supervision of the public power is difficult to cover, or supervision is ineffective, the supervision of the community and public opinion supervision force is insufficient and lack of stability. The need for more stability in the situation to plug the gaps in the establishment to make up for the lack of essential tasks of the procuratorate has historically fallen on the body. Procuratorial organs should have had the authority to supervise administrative violations of the law directly began to be awakened. In recent years, procuratorial organs at all levels have carried out extensive practical exploration of legal supervision of administrative violations, and the implementation of this important task is being gradually promoted.

4 NEW FUNCTIONS OF ADMINISTRATIVE

PROSECUTORIAL SUPERVISION IN THE NEW ERA

Since socialism with Chinese characteristics has entered a new era, the principal contradiction in China's society has been transformed into a significant strategic judgment of the contradiction between the people's growing needs for a better life and unbalanced and inadequate development, the people's needs for democracy, the rule of law, fairness, justice, security, the environment and other aspects of a more prosperous, higher level of demand and the procuratorate is closely related. How to satisfy the needs of the people is a brand new test question given to the procuratorial authorities at the time. Procuratorial organs should accurately grasp the transformation of the people's needs in the new era, find out the outstanding problems of the current procuratorial work that are not compatible with the people's needs, and strengthen and improve the administrative procuratorial work oriented by the people's needs, to provide the people with more prosperous and better administrative procuratorial products and services.

4.1 LITIGATION SUPERVISION AND RELIEF FUNCTIONS

As mentioned earlier, legal supervision of administrative litigation activities has consistently been recognized as the primary responsibility of administrative prosecution. From a functional point of view, litigation supervision solves the problem of who supervises the supervisors. Administrative litigation is the court review of the legality of administrative acts to resolve administrative disputes, protect the lawful rights and interests of citizens, legal persons, and other organizations, and supervise the exercise of administrative organs by the law of the system, which is essentially the trial right to the supervision of the administrative power. While the procuratorial organs implement legal supervision of administrative litigation activities, their direct role is to supervise the people's court supervisors. The choice of the procuratorial authorities for this task stems from their constitutional designation as the State's specialized legal supervisory body. In developed Western countries governed by the rule of law, where the separation of powers is practiced, judicial review by the courts is usually the last and final remedy, and the adequate decision of the courts must finalize all disputes. This is considered an essential criterion for a modern State governed by the rule of law. However, as Montesquieu said, all people with power abuse it for their own gain, and courts and judges are no exception. judicial corruption is considered to be a more severe and damaging destruction that "pollutes the source of the current." Because of this, in addition to the complicated judicial procedures and the judge's own moral law to prevent, the specialized organs of the litigation activities of the implementation of the supervision are objectively necessary. China is different from the West's "parliamentary and executive" system, as well as the socialist

countries, set up legal supervision organs of the tradition so that we are relatively easy to get rid of the ideological baggage; the supervision of litigation activities will be identified as the competence of the procuratorial organs. Of course, whether from the "people-centered" political mission or the objective effect of litigation supervision, the procuratorial supervision of litigation activities subjectively and objectively is also the legitimate rights and interests of citizens, legal persons, and other organizations' relief. Whether it is a protest against an effective decision that is, in fact, erroneous, the correction of violations of law by trial personnel and trial procedures, or the supervision of litigation and non-litigation administrative enforcement, it is supervision from the perspective of the court, etc., and relief from the perspective of the administrative counterparty (the person concerned).

4.2 ADMINISTRATIVE OVERSIGHT FUNCTION

Administrative supervision here means supervision of administrative power. The administrative supervision function of the administrative procuratorate on administrative power in the past, mainly through the supervision of administrative litigation activities, indirectly realizes that this has been mentioned, not here. However, as scholars have said, our country's procuratorial function in administrative litigation should not be limited to supervising administrative litigation activities. Still, it should jump out of the litigation legal relief level, standing in the administrative behavior of supervision and control point of view, so that it undertakes a broader range of legal supervision functions. This is necessary for the administrative litigation system to realize its established purpose and be entirely consistent with the constitutional positioning of the procuratorial authorities as the State's legal supervisory organs. As for how to carry out the specific system design, in addition to administrative public interest litigation by the procuratorial organs as the guardian of the public interest, the Central Opinion has been put forward to the administrative violations of the procuratorial supervision. The former has been singled out, and administrative prosecution is the same as the "four major prosecutors" this book will not expand; the latter's emergence signifies that China's administrative supervision has developed litigation supervision and extra-litigation supervision, indirect supervision, and direct supervision of administrative power coexist in the dual multi-dimensional supervision structure. The structure of a thing largely determines its performance and value (usefulness), i.e., the attributes that can satisfy the needs of the subject. The significant changes in the structure of administrative and prosecutorial supervision have led directly to changes in its functioning, the most important of which is the intensification of supervision of the executive power.

4.3 FUNCTION OF LEGAL SYSTEM UNITY

Guaranteeing the uniform and correct implementation of national laws and safeguarding the unity, dignity, and

authority of the national legal system are the legal supervision functions of the procuratorial organs, as confirmed by the Organic Law of the People's Procuratorates. As part of the legal supervision of the procuratorial organs, administrative supervision should also have this function or realize this function to assume responsibility. This function is reflected in every administrative supervision task. There are errors in the application of the law of the effective decision and mediation, such as filing a protest or issuing a retrial of the prosecutorial recommendations, in violation of the legal procedures of the trial proceedings and illegal trial judges to correct the law, the implementation of the litigation and administrative non-litigation implementation of the breach of the provisions of the law to carry out targeted supervision, as well as to the violation of the administrative act of the direct supervision of the first of all based on the procuratorate objectively and accurately applying the law based on. The correct application of the law by the procuratorial organs to correct the misapplication of the law by the judiciary and administrative organs is the most powerful way to safeguard the unity, dignity, and authority of the national legal system.

4.4 FUNCTION OF GUARDING THE PUBLIC

INTEREST

Similar to safeguarding the unity of the national legal system, safeguarding the national and public interests of society is also a function of legal supervision by the procuratorial organs. Admittedly, the national and public interests of society are a legal concept of uncertainty that is the subject of a great deal of controversy. In a generalized sense, all national public powers and the institutions that exercise them are defenders of society's national interest and the public interest. The unique feature of the procuratorate as a defender of national and social public interests is that it is a specialized legal supervisory organ set up by the State, and the law is a centralized embodiment of national and social public interests. The procuratorate guarantees the correct implementation of the national laws, especially in supervising and correcting the acts of the trial organs, administrative organs, and other exercisers of public powers that violate the law and undermine the unity of the national legal system, which in itself is a way of safeguarding the national interests and social public interests. National interests and the public interests of society. Therefore, protecting the public interest is integrated into the bloodline of procuratorial supervision and is a trait inherent in the procuratorial gene. Except for public interest litigation, which specializes in safeguarding the public interest, administrative procuratorial work best reflects the protection of the public interest. First of all, the procuratorial organs, through the supervision of administrative litigation activities, including the damage to the national interests and social public interests of the effective decision (mediation) to file a protest, on the one hand, is conducive to safeguard the fair exercise of administrative trial rights, safeguard judicial authority; on the other hand, can also prompt the court to strengthen the

judicial review of administrative acts, to force the administrative organs according to the law of administration. Secondly, the procuratorial organs through the administrative organs of the illegal exercise of power or failure to exercise power to supervise the correction, not only to safeguard the legitimate rights and interests of the administrative relative person (the relevant person) (private interests), but also to maintain the necessary administrative order, to avoid the loss of the overall welfare of the community, and compared to the supervision of the administrative litigation is limited to a limited number of administrative disputes, the supervision of the administrative law violations face a more considerable number of fields and more diverse and not entered into judicial review. More numerous and not included in the judicial review process of administrative behavior, if the supervision is in place, the public interest compared to the litigation supervision will be equal.

4.5 NATIONAL GOVERNANCE FUNCTIONS

Promoting the modernization of the national governance system and governance capacity requires the procuratorial organs to give full play to their legal supervision function, serving the overall situation and administering justice for the people, including promoting the improvement of the level of social governance based on the rule of law, providing services to guarantee the high-quality development of the economy and society, strengthening the judicial protection of people's livelihoods, and leading the society in its awareness of the rule of law, among other things. The new era of administrative supervision emphasizes precise supervision, and the mode of administrative supervision has shifted from case-by-case to case-by-case supervision and social governance. Procuratorial organs at all levels are effectively playing the dual supervisory function of administrative procuratorial supervision, analysing the causes and studying the countermeasures for the source and prevalence of administrative problems found in the performance of their duties, and comprehensively applying procuratorial recommendations, case releases, thematic reports, and government-inspection linkages to put forward feasible suggestions and recommendations to regulate administrative management and help build a government governed by the rule of law; Based on local realities, focusing on hotspots of people's livelihoods such as employment, education, social security, medical care, housing, pension, social security, and the protection of the rights and interests of specific groups such as women, the elderly, persons with disabilities, veterans, and the rights and interests of market entities, and focusing on the people's urgent needs and expectations and the difficulties and blockages in social governance, we will carry out distinctive and specialised activities targeting the outstanding problems in a region, an industry, or a field, and flexibly use the procurator's We make recommendations to the relevant departments and units in the form of suggestions, thematic reports and white papers to supervise and rectify problems, plug loopholes and establish rules and regulations, so as to promote the exercise of power

by the people's courts and administrative organs in accordance with the law, and to achieve the goal of handling a case, governing a piece of land and benefiting a party; Comprehensive use of supervision and correction, public hearings, interpretation of the law, judicial assistance and other means to carry out substantive resolution of administrative disputes, to make up for the shortcomings of the poor functioning of the administrative litigation system in individual cases with the practical effect of settling disputes, to save judicial resources and improve the efficiency of resolving administrative disputes in order to strengthen the impartiality and public confidence of the judiciary, and to give full play to the unique role of supervision of administrative litigation in the governance of the State and of society. These have contributed significantly to the country's governance system and capacity modernization.

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CONFLICT OF INTEREST

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