

## **Bureaucracy' In the Legislation of Petition System of China from the 1980s to the Mid-1990s**

Jinzhong Xiao

School of Politics and Law, Shandong Institute of Business and Technology, P. R. China 264005

Email:xiaoarsheme@126.com

**Abstract.** 'Bureaucracy' has two opposite meanings in the Chinese context: neutral bureaucracy and derogatory bureaucracy. They are on behalf of two models of the operation of government respectively. Many Chinese scholars don't make difference from the two meanings when they are analyzing the petition system. The neutral bureaucracy is a scientific management system, though the other represents a backward system. These two meanings reflected in the legislation of the petition system from the 1980s to the mid-1990s. 'Level to level administration, management by corresponding departments' and the system of leaders responsible for the petition system are the symbol of them. The purpose of their existence is to achieve the legislative aim of petition: maintaining the order of petition system.

**Keywords:** petition; neutral bureaucracy; derogatory bureaucracy

### **1. Introduction**

Neutral bureaucracy and derogatory bureaucracy are the two meanings of Bureaucracy respectively in the Chinese context, and represent two emotional meanings. As the hometown of the derogatory bureaucracy, China has had the huge political and bureaucratic organizational structure since the Tang dynasty. There are neutral bureaucracy and derogatory bureaucracy in China for a long time. The Reform and opening up of China has just beginning from the 1980s to the mid-1990s. In this period all kinds of legislation of petition system of China laid the foundation for the formation and improvement of the future legislation of petition system. Neutral bureaucracy and derogatory bureaucracy exist in the legislation system of petition system at the same time during this period. The aid of the existence of them is to maintain the order of petition system.

### **2. Neutral bureaucracy and derogatory bureaucracy**

Bureaucracy was originally a neutral term in Western social science system, it represents a form of organization of production and administration. In China, Taiwan scholars translate Bureaucracy as 'neutral bureaucracy' as its neutral meaning, which represents the rational academic analysis. So as an ideal model of organization and management, the neutral bureaucracy which we investigate in the paper establishes on the basis of the rational contract and the rule of law. It has a specialization, hierarchy, rules-based characteristics. But Bureaucracy was criticized by Marxist classics about a century ago, and more, the former Soviet Union had negative attitude to the forms of organization, the word is translated as 'derogatory bureaucracy' in Mainland China. Therefore, it has been injected negative emotion. The bureaucracy in this article is defined as neutral bureaucracy. Turning to the negative aspects of bureaucracy, or its variation in china, the derogatory bureaucracy displays its value. But because of the monopoly on power and stability of type of the neutral bureaucracy, and coupled with its conservative, it is so easy to form sectarianism within the neutral bureaucracy. These defects make the neutral bureaucracy easily become its opposite—the derogatory bureaucracy. The convergence of neutral bureaucracy with derogatory bureaucracy each other exists for long. Since Reform and Opening up the Masses have been thinking the petition system as a straw to redress the injustice, trusted it very much and scrambled for visiting the government, but in fact the petition system is just a refraction effect for right remedy for the vulnerable groups during the period of supervision to

government. The neutral bureaucracy and the derogatory bureaucracy show their own value in their own way, and affect the counterparts each other throughout the whole petition system.

### **3. ‘Level to level administration, management by corresponding departments’ and neutral bureaucracy**

‘The responsibility system of level to level administration, management by corresponding departments’ appeared in Interim Regulations on Party and Government Organs Petition in 1982, then this principle was fixed as the basic rule of process to handle petition complaints and was adopted by future petition legislation at all levels. The basic element of the neutral bureaucracy is to emphasize the one-way and closed model in the running of the management power of government. But the counterpart of the one-way and closed model in the petition system just is ‘level to level administration, management by corresponding departments’.

**Level to level administration.** The primary characteristic of the organizations under the theory of bureaucracy is the longitudinal power structure as the pyramid as well as setting up the organization levels by the controlling scope. Besides, China has been a central power country for many years and it has long been sticking to a political tradition, that is ‘The minority is subordinate to the majority, the lower level is subordinate to the higher level’. Since the mode of civil appeal of the complaints of letters and visits changed at the beginning of the reform of China's open policy, the running principle of complaints of letters and visits has been fixed as that of level to level administration, which is in fact a principle of ‘The minority is subordinate to the majority ,the lower level is subordinate to the higher level’. This principle is not only recognized by administrators of those levels but also recognized by those persons who raise the complaints. At the same time, the appealing system of the complaints by letters and visits appeared in Shanxi and Guizhou province, that is to say, those persons who are not satisfied with the result of complaint can appeal to the higher government body. Thus, these two documents not only give appealing rights to those persons who raise complaints but also give rights to the higher level administration to reexamine. This leads to a phenomenon, on the one hand, the administrative power does this work according to the principle of level to level administration, on the other hand, it permits complaint starters to apply reexamination with the mode of ‘supervision of the higher level to the lower level’. Thus, there is a clear derogatory bureaucracy system in the system of complaints by letters and visits.

**Management by corresponding departments.** A basic characteristic of bureaucracy is its closure running without any intervention from outside. Sticking to the principle of ‘the lower level subordinate to the higher level, the local government subordinate to the central government’ makes the system of bureaucracy reach to every corner of the power, and the power of our country has been divided into many systems that are closed to itself and relatively independent to each other. This characteristic of closure is actually the principle of ‘management by corresponding departments’. The increase of complaints causes the increase of those offices in different government branches, enterprises and public sector organizations. The first result of ‘management by corresponding departments’ is that the department which receives the complaints has to be the department against which the citizens raise complaints. Each power system has its complaints system in it, and almost all the complaint case will finally go to the power system itself. For example, at this period, the legislation of Shanxi province ruled that ‘the complaints by letters and visits’ should normally be dealt with by the unit where the raiser works or by the unit which has the direct responsibility on the complaint. NO.7 of the legislation of Guizhou province ruled that ‘If someone accusations other individuals and units, the complaint will be delivered to the higher authorities of the accused individuals and units and then processed by the same organizations’. That is to say, whichever government body the citizens apply complaints to, the case will be dealt with in the administrative bureau that is related to the complaints. So it is clear that there is a characteristic of closure in this problem, which is another phenomenon of the principle of management by corresponding departments

**There is more supervision from higher level than from the lower level.** This principle has not been displayed by any concrete content, instead it is displayed on the layer of manipulation, that is to say, there is more responsibility for the higher level than for the complaint raiser. During this period, the code documents on the petition system stipulated the special requirements on the complaint cases handed by superior level government body. During this period the petition system legislation of provinces shows a phenomenon on

which the complaint cases handed by superior level government body have been given more emphasis than general complaint cases. This indicates that the petition system defined in the petition system legislation in this period had more emphasis on the complaint cases handed by superior level government body. So this kind of petition system has been seen as internal oversight, not the external one in which the petitioners launch. So this cause the oversight of the petition system has been defined as internal supervision from higher level. What's more, there are no opening system, debate, independence and so on that should have been existing in judicial activities in petition review process. So in fact the petition review is a kind of administrative relief. The specificity of source of oversight and model of remedy indicates that the petition system has been designed as a system in which administrative organs supervise themselves from the Reform and Open up in the 1980s. The petition system has excluded the impact of external factors (including the trial of the Western concept of the rule of law) from then on. So it is summed up that the designing of the whole petition system is just consistent with the requirements of the neutral bureaucracy

#### **4. The system of leaders responsible for the petition system and the derogatory bureaucracy system**

This term the order that reflected by the petition legislation at all levels contains the Ideas and requirements of neutral bureaucracy system, but the petition system is on the line with Chinese characteristics since its appearance. On the other hand, the petition undermined the scientific system of administration, which damaged the normal operation of the neutral bureaucracy and went to the converse way- the derogatory bureaucracy. The petition legislative system in this term had already formulated the petition system that by leaders' reception and the petition system that by leaders' responsibility. Based on the ideal neutral bureaucracy model, the separation of the officials and the administration can ensure that the operation of the administration is out of the private control. But in the course of the leaders' reception the judicial decisions and the right relief decided by the favor of the leaders is not the requirement of the neutral bureaucracy but it is the manifestation of the derogatory bureaucracy.

The masses have their own requirements for right relief, but for the government departments, main value of the petition legislation is to stabilize the existing petition order. To maintain the existing petition order, the operation of the national right system that related to the petition must obey the principle that to follow the neutral bureaucracy system. But to the neutral bureaucracy system, the petition legislation was employed by the derogatory bureaucracy from the beginning and betrayed the scientific management in mind. Max Weber thought that the neutral bureaucracy system was not a government kind and it was the administration system that operated in accordance with established rules by the trained professionals. According to the classic neutral bureaucracy theory, officials of different levels are responsible for their duties respectively to maintain the authority of the government management system and improve its operational efficiency. It should be recognized that under the strict level institutions people who live in high-level grade may establish the separate institutional arrangements to control those actions that go out of the regular policies. This will induce the double waste turn out because only the person that responsible for the actual implementation of policy implementation know that if the implementation of the policy is valuable. The operation of leaders' petition reception must greatly undermine the principle that leaders in different grades are responsible for their own responsibilities. The setting of the leadership positions in government power system is the top of the power pyramid in the inner unit, the authority lever of the neutral bureaucracy determine the powers and responsibilities of the individual. To make the individuals that own limited capacity and energy combine though the target of the whole the neutral bureaucracy. To make the persons who are responsible for the top responsibilities to assume the roles that are responsible for the middle or bottom responsibilities. These actions will have great impact on the effects of preset of theory of the neutral bureaucracy, which will reduce the efficiency of government management system and also dampen its authority. So despite the management system among the upper and lower levels in the petition system is associated with the form of the management of the neutral bureaucracy, they reflected its negative side. The petition agencies and national power system seem adopt the organization form of neutral bureaucracy in the petition process, but it is on the opposite way in the course of deal with the petition events. This way deviated the scientific management pattern makes the petition system goes against the basic principles of the neutral bureaucracy in many

substantive aspects. So the neutral bureaucracy embodied in the petition system deviated the rational the neutral bureaucracy that choose the reasonable set of legitimate power or authority that is advocated by Max Weber, which will go to the converse way - the derogatory bureaucracy system.

## **5. Conclusions**

The 'bureaucracy' is throughout the national petition legislation at all levels in the middle of 1980s and 1990s, besides the close relationship with the own characteristics of the petition, most important is the petition system with Chinese characteristics in this term embody the natural dependence on the value of the order. The ambiguous application of 'bureaucracy' result the value of the petition legislative sometime turn out the feature of neutral bureaucracy system and sometime turn out the feature of derogatory bureaucracy system. But no matter what characteristic it turns out, it is to maintain the petition order, which is the aim of the legislation.

## **6. References**

- [1] B.M. Wang: Chinese Public Administration Vol. 260(2007), p.34-37.
- [2] X. Ying: Cass Journal of Law (2004), p.58-71.
- [3] J.Z. Xiao: Journal of Jishou University Vol.135 (2011), p.129-132.
- [4] Ch. J. Wang: Academic Exchange Vol.146 (2006), p.56-60.
- [5] S. Deng: Gansu Social Sciences Vol.84 (2006), p.125-127.