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Construction of a System of Relief Channels for Maladministration

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Abstract

As society develops and the functions of administrative organs continue to expand, the phenomenon of violations of citizens' rights is emerging, and the awareness of citizens' rights is awakening. There is a growing demand for remedies not only for administrative violations, but also for administrative malpractices that violate rights. By reorganizing and integrating the relief channels, explore the advantages and disadvantages of different relief channels, build appropriate and effective relief mechanism. When administrative disputes arise from maladministration in administrative management activities, citizens can choose appropriate relief channels under the premise of following the principle of giving priority to intra-administrative remedies and final judicial remedies to effectively supervise administrative conduct and protect their rights and interests. China's current system of relief channels for maladministration is a diversified and multi-level system of remedies with openness, with administrative reconsideration as the main channel, and with the traditional channels of administrative reconsideration, administrative litigation, letters and visits, and complaints and reports on administrative law enforcement as the basic channels, supplemented by the new channels of microblogging, mayor's public telephone calls, and reception days for the head of the government, which will be enriched and improved over time and with the development of society.

Keywords: maladministration, administrative remedies, open and diversified system of relief channels

1. Theories Underlying Maladministration

1.1 Lawful Administrative Action, Maladministration, Illegal Administrative Action

Although lawful, improper and illegal administrative actions are described here as side-by-side headings, in fact these three concepts are not side-by-side but belong to different logical levels. Divided from the point of view of whether the action is legal or not, administrative action can be divided into lawful action and illegal action. In legal action, there can also be more detailed division, some administrative action is legal and appropriate, reasonable, and some although in accordance with the provisions of the law, but is inappropriate, unreasonable. The former is legal administrative action, the latter is maladministration. Divided from the perspective of whether the action is flawed, administrative action can be divided into flawed administrative action and flawless

administrative action. A flawless administrative action is one that is both lawful and reasonable. Flawed administrative actions can be categorized into two types: illegal flaws and improper flaws.

From this, it can be seen that there are cross and overlapping parts of the division between the three, the three are not completely juxtaposed relationship, but has from the legal to illegal transition of illegal degree of difference. The regulation and relief of illegal administrative action has been the focus of legal practice, but with the development of society and the transformation of government functions, administrative action is more and more diversified, which is not only the traditional action of maintaining law and order, but more is to provide services, welfare of the administrative act of payment. Meanwhile, administrative power is increasingly expanding, so not only the illegal administrative action will cause violation of citizens' rights, but also the improper but legal action will cause a certain degree of violation of citizens' rights. Therefore, it is necessary to regulate the improper action and the legal action and set up the corresponding relief system to make up for the civil rights relief system. The scope of administrative relief is divided into the relief of illegal administrative acts, improper administrative acts and legal administrative acts, which is of great significance to the study of the scope of administrative relief and the study of administrative relief channels and means.

1.2 The Conception of Maladministration

For the classification of administrative actions, based on different classification standards, it can make different classification results. The main classifications are as follows: based on the object of administrative action, it can be divided into abstract administrative action and specific administrative action; based on the meaning expression made by the parties involved in administrative legal relations, it can be divided into unilateral administrative action and administrative action of the two sides; based on the extent to which administrative subjects are bound by the law, it can be divided into constrained and discretionary administrative action; based on the standard of whether it is necessary to have a certain way to make an administrative action or not, it can be classified into formal and informal administrative action, etc. Then maladministration is certainly a product of classification based on certain criteria. In our legal norms and practice, there is no clear definition of maladministration. This concept appears frequently in the legal practice of countries and territories that have established an ombudsman system. Most countries and regions have clarified the concept through legislation or jurisprudence, and as a result the definition of maladministration varies, there is not yet a definitive and uniform definition. In comparative law research, the localisation of law has always been an important principle, and it is particularly necessary to construct a set of legal discourse and conceptual system belonging to China. Therefore, it should be based on China's national conditions, in the socialist legal system with Chinese characteristics to study what is maladministration.

Generally speaking, maladministration, also known as improper administration or bad administration, refers to improper or inappropriate administrative behaviour. China's academia, in the process of legislation on administrative litigation and in the interpretation of administrative litigation law, views the maladministration as a concept corresponding to the illegal administrative action to be studied and analyzed. It is generally accepted that flawed administrative action is divided into illegal administrative action and maladministration, and that maladministration refers to inappropriate administrative acts made by administrative organs within the scope and range prescribed by law. That is to say, a maladministrative act is an act that violates the principle of administrative reasonableness and is an inappropriate and unreasonable act within the scope of discretionary power. However, according to the provisions of China's administrative litigation law, the abuse of discretion constitutes a violation of the law, and it is generally understood that 'abuse' here refers to an intentional subjective state. Therefore, the administrative organ unintentionally 'abused' its discretionary power constitutes improper administrative behaviour. In practice, maladministration should not only refer to improper acts within the range prescribed by law, but also to all inappropriate and improper acts within the discretionary range of the administrative organ. It should include two aspects: firstly, the results and manifestations of administrative acts made by the administrative organ are within the scope and range stipulated

by the law, but the contents are inappropriate; secondly, the administrative organ, in the process of making the administrative acts, has acted inappropriately, such as delaying, being impolite, and failing to state the reasons, and so on.

2. Construction of a System of Relief Channels for Maladministration

2.1 Classification of Administrative Relief Channels

Distinguished from the way of administrative relief, the channel of administrative relief refers to the question of what path and channel to achieve relief, that is, when the relative is infringed upon by the administrative act, through what procedure and what path to pursue the responsibility of the administrative subject to obtain relief.

According to the criterion of whether or not a certain behaviour is required to achieve relief, the channels of relief can be distinguished into dynamic channels and static channels. Dynamic remedies, which can also be called remedies obtained through behaviour, refer to remedies for administrative infringements obtained through the actions of administrative organs on their own initiative or through the actions of the parties concerned seeking them from the relevant organs. This kind of relief, which can only be obtained through active behaviour, requires a certain cost to achieve. Most of the administrative remedies are in dynamic form. Static relief, which can also be referred to as relief directly enforced by legislation, means the relief of the administrative organ's unlawful or improper administrative action is directly stipulated in the legislation in favour of the results of the relative. In this case, the relative can obtain relief at no cost to him, thus directly realizing his rights.

In the dynamic remedies, it can be further subdivided in terms of the different subjects who implement the remedies. Whether through the judicial implementation of relief as a criterion, administrative relief can be divided into litigation relief and non-litigation relief. Litigation relief refers to the relief implemented through the court's daily litigation activities, which has the characteristics of rigorous procedures, comprehensive norms and fair results, in line with the principle of the rule of law for final judicial settlement and is a widely used and effective channel of administrative relief in countries all over the world. Non-contentious remedies are mainly, but not exclusively, intra-administrative remedies, such as those directly achieved through legislation, cannot be classified as intra-administrative remedies. Intra-administrative remedies, with their advantages of efficiency and low cost, have also become an extremely important part of the administrative remedies system.

Administrative remedies can be divided into intra-administrative and extra-administrative remedies based on the criterion of whether or not the remedies are implemented by the administrative organ. Intra-administrative remedies refer to remedies implemented by administrative organs; extra-administrative remedies include, in addition to litigation remedies, remedies implemented directly by legislation and other remedies implemented by the legislature or other organs that have formed a system.

China's Administrative Procedure Law and Administrative Reconsideration Law clearly set out two channels to address administrative disputes arising from unlawful administrative behaviour, but there is no clearer path to remedies for preventing and resolving administrative disputes arising from maladministration. Following the principle that remedies must be adapted to the act being remedied, the appropriate relief channels should be chosen for specific maladministration, so it is necessary to integrate remedies and build an appropriate and effective remedies system for maladministration in order to resolve administrative disputes and alleviate social contradictions and conflicts.

2.2 Traditional Means of Redress for Maladministration

2.2.1 Access to Judicial Remedies — Administrative Litigation

Administrative litigation as a remedy channel for maladministration is not smooth, because maladministration is an administrative discretionary act that does not violate the principle of legality, while the court follows the principle of lawful review when hearing cases to resolve disputes, and only makes a discretionary decision on the legality of the administrative act being sued for, so that the plaintiff's lawful rights and interests are not adequately safeguarded judicially in the context of administrative litigation brought on the basis of maladministration. Although subsequent

judicial interpretations by the Supreme Court have broadened the court's power to recommend and change maladministration, the court's ability to provide intra-legal remedies for maladministration remains limited. Although the Administrative Procedure Law amended in 2014 added the circumstance of 'obvious impropriety' to the section on circumstances applicable to revocation of judgements (Article 70), the review of 'obviously improper' administrative acts has gone beyond the scope of reasonableness. Administrative malpractice to an 'Obvious' extent is no longer be bounded by the principle of reasonableness, the court in accordance with the law in the "obviously improper" administrative action review has become a special review of legality. Administrative litigation provides a higher standard for relief of maladministration, namely, 'manifestly improper'. The standard of judgement for manifestly improper administrative acts can be borrowed from the standard for invalid acts, i.e., the standard for manifestly improper administrative acts is that there is a 'significant and obvious' impropriety in the administrative act. The standard of obviousness is manifested by the fact that a normal, reasonable citizen would unquestionably recognise the impropriety at first sight, i.e., 'objective and obvious in appearance', 'obvious at first sight'. 'A defect in an administrative act is not apparent if there is a doubt about legality or illegality.' For example, in the case of the Luoyang State Taxation Bureau, which became a defendant for rewarding a whistle-blower with one yuan of money, the amount of the reward offered by the tax authorities to those who report invoice irregularities is an appearance of manifest impropriety at first sight. The criterion of materiality is demonstrated by the fact that the improper administrative act violates the relevant legal principles and the spirit of the law, and is inconsistent with the purpose of the relevant law. For example, article 43 of the Law on Punishment for Public Security Administration stipulates that anyone who assaults another person or intentionally inflicts bodily harm on another person shall be sentenced to detention for not less than 5 days and not more than 10 days and a fine of not less than 200 yuan and not more than 500 yuan; if the circumstances are less serious, he shall be sentenced to detention for not more than 5 days or a fine of not more than 500 yuan. If a person who throws a few sheets of A4 paper at another person without causing any injurious consequences is found to have committed an assault and is sentenced to administrative detention, such detention violates the principle of proportionality and is grossly inappropriate. Obvious impropriety of an administrative act includes both obvious impropriety of the outcome of the process and obvious impropriety of the factual findings, application of the law, and the procedure and process by which the decision was made.

Administrative litigation is characterised by standardised and rigorous procedures; it is conducted by judicial officers who are well versed in the law and independent of the administrative authorities, in keeping with the concept of fairness and justice and the requirements of the principle of the rule of law. The relief provided by administrative litigation is characterised by its authority and finality.

2.2.2 Intra-Administrative Relief Channels

2.2.2.1 Administrative Reconsideration

The legislative purpose of administrative reconsideration is to prevent and correct improper administrative behaviour, and the implementing regulations of the Administrative Reconsideration Act make it clear that the review organ may decide to change an administrative act that is clearly improper. Therefore, whether from the point of view of safeguarding the rights and interests of administrative counterparts or from the point of view of administrative internal supervision, administrative reconsideration plays a role in correcting improper administrative behaviour and resolving disputes.

Administrative Reconsideration Law of the People's Republic of China, as amended in 2023, has made new changes. Its Article 1 stipulates: In order to prevent and correct illegal or improper administrative acts, protect the lawful rights and interests of citizens, legal persons and other organisations, supervise and safeguard the exercise of authority by administrative organs in accordance with the law, give full play to the role of administrative reconsideration as the main channel for resolving administrative disputes, and push forward the construction of a government governed by the rule of law, the Law is formulated in accordance with the Constitution. As can be seen from this provision, administrative reconsideration has been made

the main channel for resolving administrative disputes, and its ability to absorb administrative disputes has been strengthened.

Administrative reconsideration is characterised by simple procedures, which are in line with the principle of efficiency; it is conducted by administrative personnel who are well versed in the business, which is in keeping with the professional nature of administrative cases; and the vertical system of hierarchical relationships within the administrative organ facilitates the execution of administrative cases. The advantage of adopting administrative review to remedy improper administrative behaviour lies in the high efficiency and the strong professionalism of the relevant government departments to conduct the review. However, there are also problems, such as the independence of the body administering the relief.

The principle of the independence of the status of the body administering the remedy is a common feature of all dispute settlement systems. Wherever justice is required, impartiality in the exercise of adjudicative power is of paramount importance. The principles of natural justice, which have greatly influenced the legislation of modern countries, require, at their most basic level, that the adjudicator cannot adjudicate for himself, that the adjudicator must remain neutral in the adjudicatory process, and that the parties have the right to be heard before a decision is made against them.

In the administrative remedy system, the principle of the independence of the status of the remedy agency requires that the agency that implements the remedy should maintain its independence of status, especially in the establishment of the agency, so that the remedy mechanism operates in an unbiased manner.

How should the question of the independence of the status of the intra-administrative remedy body be viewed? This should be viewed from two aspects, on the one hand, administrative relief agencies should try to maintain neutrality and independence. For example, the administrative adjudication system in the United Kingdom and the United States of America, by its very nature, is also an intra-administrative remedy. Inevitably, there is a risk that the adjudicator will adjudicate for himself, and the status of the relief agency cannot be truly independent. However, the status of administrative adjudicating bodies in various countries is relatively independent in the system of administrative organs, and each adjudicating office or adjudicating committee is generally composed of professionals and prominent members of the community. On the other hand, the supervision and redress of intra-administrative remedies is absolute and is governed by the principle of judicial finality, and the independence of the status of judicial remedies is not in doubt. Courts exercising judicial remedies are independent of any State apparatus, and judges should be independent in the exercise of their judicial power, as provided for in the constitutions of modern States. The principle of independence in the exercise of judicial power is combined with the principle of judicial finality of remedies, thus ensuring the independence of intra-administrative remedies.

On the question of independent remedial institutions, lessons can be drawn from extraterritorial experience. Since the middle of the twentieth century, countries around the world have been exploring systems of redress for maladministration and have developed a distinctive ombudsman system. The Ombudsman system is a legal system for monitoring and implementing remedies against maladministration. The system was first introduced in Sweden in 1809 and later spread to Denmark, Norway and other countries in Scandinavia, and after the 1960s, it has been widely adopted by countries all over the world. At present, the Ombudsman system is practised in Sweden, Greece, Romania, Bulgaria, Lithuania, Canada, the Philippines, Thailand, the Republic of Korea and Hong Kong.

The composition of ombudsmen varies from country to country but has some similarities. Generally, they are independent of the executive and are headed by a chief. Some countries or regions provide that the Ombudsman is accountable to Parliament, such as Sweden, Denmark, Finland and the United Kingdom, while others provide by law that the Ombudsman is accountable to the Head of State or Government and to the Chief Executive of the region, such as the Ombudsman system in Hong Kong, China.

The Ombudsman's task is mainly to monitor the so-called 'mismanagement' of administrative acts made by administrative organs. On the one hand, judging from the positive expressions in

the legislation of various countries, the Ombudsman mainly monitors the lawful and fair exercise of power by public administrative organs; on the other hand, in terms of the division of labour between the Ombudsman and other organs dealing with administrative disputes, the Ombudsman mainly monitors and remedies maladministration.

The powers and functions of the Ombudsman include the following: (a) Investigative powers: Generally speaking, the Ombudsman has the right to access the relevant files, to question the parties concerned or witnesses, to ask for their assistance, and to enter the relevant authorities to conduct inspections; (b) The right to make recommendations: Based on the findings of the investigation, the Ombudsman shall make recommendations to the relevant departments and public officials to rectify the illegal or improper acts and to grant relief to the relative persons who have been aggrieved by the illegal or improper acts. For example, the Ombudsman may recommend the relevant departments to improve the way of work or the working procedures and point out the specific ways to improve them, recommend that the departments being complained against make an apology to the complainants, and recommend that the relevant departments impose disciplinary actions such as suspension or dismissal, and so on; (c) The right to publicity of findings: The Ombudsman has the power to make public the findings of an investigation in such a manner as is appropriate in the public interest without disclosing the identity of the persons involved. Publicity includes disclosure to the community and the press, as well as disclosure to the political and social community through publication in the Office's annual report; (d) Reporting rights: Reports take many forms. The Ombudsman is generally empowered to report to the Prime Minister or Parliament if his or her recommendations are not followed, and to make the investigation report public. Legislation relating to the Ombudsman also generally requires the Ombudsman to make a written annual report to Parliament or the Chief Executive in each reporting year, giving a full report on the fulfilment of the Ombudsman's functions over the past year, and such annual reports are made public as a matter of statutory obligation and right for the Ombudsman; (e) The right to conciliation: Some countries or regions' Ombudsmen also enjoy the right to conciliation, such as the Ombudsmen of France, Australia and Hong Kong, China. Conciliation conducted by the Ombudsman can, on the one hand, provide an option for resolving the issues involved in a complaint by giving both the complainant and the organization concerned an opportunity to hear the views of the other party in detail with a view to resolving the differences of opinion; and on the other hand, it can provide an expedient means of resolving the grievances of the complainant in a speedy manner as far as the law, the policy, and the resources of the organization concerned permit; (f) Right to prosecute: In the early days the Swedish Ombudsman could, in accordance with the law, go to court and ask the courts to hold officials who had committed offences, dereliction of duty and misconduct legally responsible. He himself acted as public prosecutor and could also be represented in court by his subordinates or by the State Public Prosecutor. However, since an amendment to the Swedish Penal Code in 1975, which penalised dereliction of duty and negligence only in cases of wilfulness, negligence or gross negligence, the vast majority of cases before the Ombudsman are now not justiciable, and Ombudsmen established after the 1960s generally do not have the power to bring proceedings before the courts.

Although national and regional laws generally provide that matters before the Ombudsman may be either administrative offences or maladministration, in practice the Ombudsman deals mainly with maladministration, or its strength lies in the monitoring of maladministration. In Hong Kong, the Ombudsman Ordinance provides that the Ombudsman only accepts complaints of maladministration, and does not generally accept complaints of administrative offences, which are subject to the traditional remedies of administrative appeal and judicial review. In practice, maladministration is mainly manifested in the administrative management of the administrative organ and in the process of making administrative acts, such as unfairness, lack of efficiency and so on, and there are also a few manifestations of the administrative organ's administrative acts concluding that they are lawful but inappropriate. It is difficult to make a judgement of right and wrong and a legal evaluation of maladministration. The attitude of the Ombudsman in dealing with specific cases, which focuses on solving problems rather than

pursuing faults and responsibilities, and on improving the level of administration in the future rather than evaluating the merits and demerits of the past, is precisely adapted to the characteristics of maladministration and the need to implement remedies and supervise maladministration, and is therefore recognised by all parties in the pursuit of administrative fairness in the modern society, which strikes a balance between administrative fairness and administrative efficiency.

The Ombudsman system is a non-coercive remedy. Since administrative acts are not unlawful and the Office of the Ombudsman is not a law enforcement agency, the Ombudsman cannot make a direct decision on the administrative act complained of. The Ombudsman has no direct power to dispose of, withdraw or vary a case before him, i.e., the Ombudsman has no final, binding, coercive or enforcement power in respect of the issues in dispute. The Ombudsman's role does not lie in his or her strong and universal powers, but in the convincing analysis and judgement he or she makes through an independent and thorough investigation of the case. The general acceptance of its recommendations is due to the fact that their content is objective and reasonable. Suggestions for corrections or improvements to the work of the administrative organs are made by bodies other than the administrative organs to guide the future work of the administrative organs, sometimes with as many as a dozen or more recommendations, and are not subject to judicial review, which the judicial organs cannot and should not be able to do under the judicial route characterised by the principle of non-complaint, and which the administrative organs have difficulty in accepting when the two parties to the judicial route are facing each other in court. However, if a body independent of the executive, recognised by the community as capable of administering fairness and justice, conducts investigations and mediation in a non-confrontational situation between the parties and makes sensible and reasonable recommendations, its recommendations will be readily accepted by the parties.

Under the Ombudsman system, the role of the individual Ombudsman is significant, and considerable demands are made on his or her character, experience and knowledge. In order to accommodate this feature of the ombudsman system, good character is generally required for the position of ombudsman, and the need for administrative experience is generally not taken into account. An examination of ombudsmen in various countries shows that they generally come from a background of law professors, judges or lawyers. Some require the Ombudsman to be legally literate, such as Sweden, Denmark and Finland. It is generally accepted, however, that it is not sufficient to be a legal scholar to serve as an Ombudsman. In addition to having a considerable academic foundation and extensive practical experience, it is more important to have no party affiliation and to have a personal character and reputation. The implementation of the Ombudsman system has shown that, in addition to requiring the rule of law and the cultural context of the society, it is a system that can and needs to be characterised by the personalities of its leaders. As a result, the Ombudsman's organisations are generally small and compact, and the role of the individual Ombudsman is significant.

The Ombudsman also has a practical role in improving administration. The role of the Ombudsman is first and foremost in the handling of individual cases, through which administrative remedies are implemented to protect the rights and interests of complainants. However, the role of The Ombudsman is not limited to this, but mainly lies in the following: Firstly, through the handling of individual cases, public sentiments can be expressed, public grievances can be dispelled, the gap between the public and the Government can be lifted, and the relationship between the public and the Government can be improved. Secondly, through constructive comments or suggestions on the case, similar incidents can be avoided, thus playing a positive role in preventing administrative offenses or misconduct. Thirdly, through the investigation of micro cases, it plays a preventive role and urges the administrative organs to improve their management and systems, thereby promoting administrative fairness and efficiency.

In summary, the advantages of the Ombudsman system in dealing with maladministration lie in the great flexibility and practicality and in the independence and supremacy of the Ombudsman, who only investigates and makes recommendations on the issues in dispute and does not make judgements. In constructing the system of remedies for maladministration in China, under the premise of combining the

national conditions and realities of our country, we can fully learn from the experience, draw on and absorb the reasonable factors therein, and transform them for our own use.

2.2.2.2 The System of Letters and Visits

The system of letters and visits is unique to China, and the Regulations on Letters and Visits, as amended in 2005, have advanced the institutionalisation, proceduralisation and standardisation of the work of letters and visits, protecting the lawful rights and interests of those who submit letters and visits. The regulations are repealed on 1 May 2022.

In the Regulations on Letters and Visits, the powers of the petition agencies to deal with petition cases are limited to the scope of acceptance, transmission, referral and supervision, that is to say, the petition agencies have no direct investigative powers in petition cases, and the petition cases caused by malpractices in administrative behaviour may eventually be returned to the administrative organ that initially made the malpractices to be resolved, which results in the administrative relief system for letters and visits being virtually non-existent, and does not play the role of a real remedy for the rights of the administrative counterpart. The principle of 'exhaustion of statutory remedies' is easily overlooked in the practice of letters and appeals, and there is a lack of corresponding institutional provisions for dealing with the interface between letters and visits and administrative reconsideration, and for clarifying the role of administrative reconsideration as the first line of defence in the resolution of administrative disputes. As the government petition agencies still do not have direct investigative powers over the petitions, but rather, after accepting the petitions, they are categorised and forwarded to the administrative organ with the power to deal with them, as the administrative organ with the power to deal with them, i.e., the administrative organ that has committed the improper administrative act involved in the case of the petition, or its superior organ, when dealing with such administrative disputes, the status of the administrative organ that has the power to deal with the case of the petition is not neutral, which often makes the petitioner question the outcome of its handling. This is the common disadvantage of the petition system and administrative reconsideration. China's county-level governments have set up a large number of petition agencies and are not subordinate to each other and do not communicate with each other, which has led to various departments pushing and pulling each other out of the way and leaving no one to deal with it, lowering the efficiency of the petition and increasing the cost of relief for the petitioner.

On 1 May 2022, the Regulations on Letters and Visits jointly issued by the Central Committee of the Communist Party of China and the State Council came into force, compared with the previous Regulations on Letters and Visits, not only increased the content of the Party's leadership of the work of Letters and Visits, but also to a certain extent raised the legal status of the Regulations on Letters and Calls, which is not only an administrative law and regulations but also has the nature of the Party's internal regulations; The Regulations on the Work of Letters and Visits not only regulate the work of administrative organs, but also extend to Party organs, NPC organs, CPPCC organs, supervisory organs, judicial organs, procuratorial organs, as well as organisations of mass groups and state-owned enterprises and public institutions at all levels. The promulgation of the Regulations on the Work of Letters and Calls has established a pattern of unified leadership of the Party committee, implementation by the government, coordination by the Joint Conference on the Work of Letters and Visits, promotion by letters and visits departments, and concerted attention by all parties to letters and visits. The system of letters and visits has been improved, the legislative process for letters and visits has been further accelerated, and the degree to which letters and visits are governed by the rule of law has continued to increase.

Both the Regulations on Letters and Visits and the Regulations on the Work of Letters and Visits stipulate that a petitioner has the right to be heard and to request a reply, and that a petitioner may, in accordance with the law, petition the administrative authorities in respect of the acts of their office. In administrative disputes arising from maladministration, the administrative relative may, in accordance with the regulations, become a petitioner to assert his or her right to complain and make proposals to initiate the petition procedure. Throughout the entire process of handling petitions, the activities carried out to safeguard the legitimate

rights and interests of petitioners are reflected in the acceptance, processing and supervision of petitions. However, when a petitioner disagrees with the outcome of a petition, he or she also has the right to request a review. Because of the low capacity of administrative reconsideration to resolve administrative disputes, most claimants choose to seek to resolve their conflicts by petition. The petition system has therefore become a channel for those who, in accordance with the law, should resolve administrative disputes through administrative litigation, administrative reconsideration, administrative arbitration and other legal channels, and has become a relief system to compensate for disputes over administrative misconduct resolved through administrative reconsideration and administrative litigation. In practice, petitions are usually no longer applied to cases that have been concluded by litigation, arbitration and reconsideration, and are only applied to administrative acts that are not manifestly wrongful when other statutory remedies are not available.

2.2.2.3 Administrative Complaint Reporting System

Administrative complaint reporting is the behaviour of an administrative relative who believes that the administrative law enforcement actions carried out by the administrative body are illegal or improper, and who resolves administrative disputes by filing a complaint, accusation or denunciation with the relevant authorities. In order to supervise administrative law enforcement activities and safeguard the legitimate rights and interests of the administrative relative, many local governments have made this system clear in the form of government regulations.

For example, in 'Zhengzhou City, administrative law enforcement complaints acceptance measures', administrative relative is given the right to complain and report. The relative files a complaint, and the received organ makes a decision on whether to accept after reviewing. For improper administrative action, the organ will notify the main body of the administrative law enforcement to rectify the deadline on their own, overdue rectification of the people's government at this level may be reported to make a revocation, alteration, or order to make a new decision on the specific administrative act. If they are dissatisfied with the outcome of a case, the unit or individual concerned may lodge a complaint with the organ that made the decision. It is thus clear that the administrative complaint and reporting system is one of the relief channels for resolving administrative disputes arising from maladministration.

In terms of the content of complaints, the administrative law enforcement complaints systems of various places provide for the possibility of filing complaints and reports of unlawful or improper administrative law enforcement behaviour. Some places also explicitly stipulate uncivilised law enforcement as a matter of complaint, for example, article 6, item 5, of the Regulations on the Acceptance of Complaints and Reports on Administrative Law Enforcement in Yinchuan City stipulates that complaints and reports on administrative law enforcement personnel's brutal and uncivilized attitude to law enforcement shall be accepted by the agency accepting the complaint and report.

However, there is no uniform legislation on administrative complaints and reporting system for maladministration, and most of them are found in government regulations or normative documents, with different bases of effectiveness resulting in different dispute resolution procedures and results. Due to the low level of legal effect affects the administrative complaint reporting system of social awareness and recognition, thus reducing the implementation of administrative complaints, which is also through the administrative complaint reporting system to remedy the administrative relative to the main reason for the weak effect.

2.3 New Approaches to Remedies for Maladministration

With the development of society, scientific and technological progress, especially the development of the Internet, in addition to the traditional ways of resolving administrative disputes, such as administrative litigation and administrative reconsideration, there are many new mechanisms for resolving administrative disputes. Firstly, the mayor's open telephone call was set up in Shenyang City, Liaoning Province, on 18 September 1983. Through continuous development, the mayor's open telephone call has comprehensive functions such as early warning, consultation, complaint, coordination of emergencies and non-emergency assistance, and has become an important tool for the government to contact the public and for the public to participate in the management, and it

has opened an important channel for social management. It has opened up an important channel for social management and has also become an important supplement to the multiple dispute resolution mechanism. Secondly, reception days for heads of departments. In connection with the reform of the petition system and the disclosure of government information, and in order to better facilitate the public's access to petitions and the expression of their demands, and to enable the general public to have the opportunity to communicate directly with government officials, the practice of chiefs' reception days has begun to emerge throughout the country, since the 1997 reception day for the head of the Public Security Department of Jiangxi Province. It can be said that the Chief Executive's Reception Day is a special form of letters and visits, but compared with ordinary letters and visits, the Chief Executive's Reception Day is more effective in dealing with complaints and is therefore a system that is well received by the public. Thirdly, microblogging for politics. Microblogging is a self-media tool based on the rise of the Internet, which is characterised by its fast dissemination speed and allows everyone to play the role that only the media could play in the past. Based on government information disclosure, the number of Chinese government microblogs has been growing, and famous government microblogs. Microblogging has the advantages of safeguarding people's rights, winning people's hearts and forcing officials to be honest. At the same time, due to the network of openness, transparency and participation, the use of microblogging is in full swing, especially in the anti-corruption, microblogging has replaced the forum as the main position. Many social hotspots have been investigated and dealt with through the rapid dissemination and fermentation of microblogging or have caused enormous social repercussions. Although microblogging cannot impose penalties, much less replace laws and systems, the network, while aggregating many clues, can draw the attention of national disciplinary and supervisory authorities to carry out investigations and investigations of the parties involved, and thus still have a huge impact. In addition, there are other forms, such as television questioning and volunteers to supervise the Party's style of government, and so on.

It can be noted that these new approaches to administrative dispute resolution have some common features: Firstly, the target is mainly administrative problems of a general nature. Mostly, they are acts of maladministration, violation of public interests and other gains. For example, low level of administration, delays, lack of efficiency, poor decision-making, and so on. Through these avenues, problems are identified and resolved, public dissatisfaction is expressed, antagonism is eliminated, and administrative bodies are helped to improve their management. These new avenues are not suitable for resolving cases in which rights have been impaired as a result of unlawful administrative behaviour on the part of the administrative authorities, nor are they suitable for resolving the issue of administrative compensation. Secondly, the use of new media has resulted in rapid responses. From the point of view of the dispute settlement platform, these new ways are generally with the help of new media means, such as telephone, television, network, and so on, and with the more extensive use of electronic information, new media means may continue to appear. As the new media have the characteristics of rapid response, timely communication and easy interaction, the new ways of administrative dispute resolution will certainly also have these advantages. Thirdly, it serves a variety of functions. They serve the functions of dispute resolution, as well as communication, exchange and monitoring. Most of these new approaches have multiple functions and thus manifest themselves as a comprehensive model of social management. Fourthly, they are complementary. Functionally speaking, it is difficult for the new approach to resolve disputes directly, and it is often necessary to resort to the traditional approach, or for the administrative authorities to take the initiative and consciously rectify violations of the law and misconduct and improve their work under the prompting of the new approach. For the time being, therefore, the new approach is complementary to the traditional approach and has a supplementary role.

2.4 Constructing an Open and Diversified System of Relief Channels Based on Traditional Routes Supplemented by New Routes

In the case of our country, the channels of remedies for maladministration will gradually form an open and diversified system that is still, and will remain for a long time, based on the

traditional ways, supplemented by the newly emerged ways, which are constantly evolving. Especially after the publication of the revised Administrative Review Law on 1 September 2023, administrative review will become the most important channel of relief for maladministration. On the issue of the relationship between administrative reconsideration and administrative litigation, the current provisions are based on the choice of the parties, with the exception that reconsideration must be applied to the administrative organ or that reconsideration must be used as a preliminary procedure. Under the trend of expanding the scope of administrative litigation, the pressure on administrative trials in terms of both quantity and quality has been increasing, and at the same time, on the premise of following the principle of priority of intra-administrative remedies and the principle of final judicial remedies, the remedies for maladministration will be alleviated through the intra-administrative remedies more often. Under the internal administrative remedies, administrative reconsideration, as the main channel of remedies, together with the letter and visit system and the administrative law enforcement complaint and reporting system, constitute the remedies system for maladministration. When the parties are infringed upon by a maladministrative act, they will be able to choose a suitable remedy according to the characteristics of the specific dispute, without violating the mandatory provisions of laws and regulations, according to their personal wishes, and in conjunction with the costs consumed by the remedy, and to give comprehensive consideration to choosing a suitable remedy, so as to better and more effectively safeguard their lawful rights and interests.

3. Conclusion

For misconduct of administrative action, the choice of remedies, must follow the remedies and remedies for the behaviour of the principle of adaptability. At present, for the relief of maladministration, people can choose more and more diversified channels, in the construction of maladministration relief system, should be administrative litigation, administrative reconsideration and other traditional ways as the focus, give play to the new ways of auxiliary and complementary role. In the case of the traditional route, there should also be a certain sequential hierarchy that needs to be followed when choosing a relief route. According to the current legal norms, the scope of application of administrative litigation is limited to administrative acts that are clearly improper, which is in line with the modesty and finality that administrative litigation should have. According to Article 1 of the newly amended Administrative Review Law, 'This Law is enacted in accordance with the Constitution in order to prevent and correct illegal or improper administrative acts, protect the lawful rights and interests of citizens, legal persons and other organisations, supervise and safeguard the exercise of authority by administrative organs in accordance with the law, give full play to the role of administrative review as the main channel for resolving administrative disputes, and promote the construction of a government governed by the rule of law.' Therefore, the administrative review should be the main remedy, follow the principle of administrative relief priority, with letters and visits, administrative complaints and reports as a supplement, while following the principle of exhaustion of statutory remedies, in the case of statutory remedies can not be satisfied, in order to make the dispute can be effectively resolved, the comprehensive use of other emerging ways as a supplement, some countries and regions have also established a special system and institutions. Some countries and regions have also set up special systems and institutions, the Ombudsman system, to provide redress for rights that have been violated or are likely to be violated, and the reasonable factors therein can also be learnt from. At the same time, it should also be aware that the system of relief channels for maladministration is inevitably open, and in the future more and more new channels will appear, we should always maintain a prudent but inclusive attitude.

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