

The Perfection of Villagers' Supervision Right

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Abstract

Democracy supervision is an important right to Chinese villagers. This article analyzes and comments on the theoretical property and reality of villagers' supervision right, as well as the status of present villager's supervision right mechanism. Then it criticizes on the existing problems and provides the perfection measures for villagers' supervision mechanism, thus villagers' democratic election, democratic decision-making, democratic management and democratic supervision would develop evenly, coordinately and soundly.

Key words: Villager committee; Villager; Democracy supervision; Supervision mechanism

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INTRODUCTION

It has been thirty years for China's reform and opening up, China continues to develop the socialism with Chinese characteristics, builds a moderately prosperous society, and implements the scientific concept of development thoroughly in the new stage. Throughout our country, there are 0.9 billion rural population out of 1.3 billion people, and agriculture is the foundation of the national economy, even though China is now gradually entering the stage that industry nurtures agriculture, but China is still a large agricultural country. Therefore, the situation of reform,

development and stability in rural areas directly related to the overall situation of our entire national reform, development and stability. Among them, nomocracy plays an important role in the protection of rural economic development and social stability in rural areas. Rural grassroots democracy is an important part of building the democracy and nomocracy of socialism, and reforming the political system socialism, which is also a key part and an important guarantee of the socialism modernization construction. Hu Jintao, general secretary of the party's congress pointed out in the 17th political report that: "Grassroots democracy, protects that people have more and more realistic democratic rights. People directly exercise their democratic rights in accordance with law, manage local public affairs and welfare undertakings, implement self-management, self-service, self-education, and self-monitoring, exercise democratic supervision over cadres, which is the most effective and most widely used way for people being masters in their own house, and must be focused on promoting the development of socialism democratic politics as a basic project. " This means that as an important part of the democratic politics, whether the institution of democratic supervision is perfect, directly affects whether the rural grass-roots democracy could be healthily developed and achieved, and relates to whether the vital interests of the hundreds of millions of Chinese peasants could be implemented smoothly, and even relates to whether the construction of China's democratic nomocracy of socialism, the reform of the socialism political institution and the building of socialism modernization could be achieved.

As an important and also a weak link for achieving Chinese villagers' democratic rights, democratic supervision is an important issue needs to be solved in theory and practice at the current stage.

Currently, there is a prominent problem that the relevant legislation of the villagers' supervision mechanisms still lags behind, grassroots cadres and villagers a lack

of legal awareness. By exploring, this paper hopes to offer suggestions to the supervision mechanism, to make the villagers embark on the balanced, complementary, coordinated and healthily developed road in the four aspects of democracy: democratic election, democratic decision making, democratic management and democratic supervision.

1. THE NEED TO IMPROVE VILLAGERS' DEMOCRATIC SUPERVISION

In China, farmers, agriculture and rural area (collectively called as "San Nong") has a very prominent and special status, there are more than 900 million farmers in the population of 1.3 billion, and the basic national condition, decides the special status of strengthening democracy in rural areas in the country's democracy strategy. We can say that as the country's basic principle, the fundament of democracy is in the countryside and at the grassroots level. With the continuous deepening of China's reform, the CPC Central Committee and State Council paid more attention on the "San Nong" issue, raised it to the "most important" position, and also raised "building a new socialism countryside is the major historic task in China's modernization process." Only by constantly improving the villagers' supervision, can ensure function of the villagers' ownership effectively, in order to solve the problem fundamental San Nong issues effectively.

1.1 The Overview on Villagers' Democratic Supervision Institution

1.1.1 Concept of China's Democratic Supervision Institution

Our state is a socialism country with people's democratic dictatorship led by the working class, and bases on the alliance of workers and peasants, and the establishment of national institutions implements the principle of democratic centralism. National People's Congress and each local People's Congresses are elected democratically, responsible to the people and supervised by the people. Therefore, in our country, supervision institutions are essential elements for any powers exist.

1.1.2 Villagers' Democratic Supervision Content

The main content of villagers' supervision institution includes open of village affairs, democracy review and the villagers' committee regular reports. There are five main forms of democratic supervision: First, convenes village meetings or villagers' representative meetings, villagers committee reports villagers' representative meeting or the completion of evaluated issues and financial accounts of the village, then the villagers democratically evaluate them; the second, establishes a democratic public financial management and financial supervision group, responsible for auditing the village's finance, and identify financial problems; Third, establishes the affairs column,

publish timely the financial revenue and expenditure, the burden on farmers, family planning indicators and house base allocation, which are concerned about mostly by villagers; Fourth, implements village cadres' term audit and the outgoing audit; Fifth, members of the village committee is incompetent to be dismissed by the villagers in accordance with law.

1.1.3 Legal Nature and Status of the Villagers' Supervision Institution

Villagers' committee is actually derived from the villagers practice and creation, its economy is based on the implementation of contract responsibility system. "Constitution" of 1982 clearly identified the villagers' committee as grassroots autonomous organization, so that the villagers' self-government organizations in China became our country's constitutional system. November 4, 1998, Standing Committee of National People's Congress passed the "Organic Law of Villagers' Committees of People's Republic of China" to further improve villagers' ownership the system from the perspective of democracy, and provide legal protection for the legitimate rights of the villagers.

Democratic supervision as the protection to achieve the rights of the villagers, the institution has a pivotal position in the "four democracies" implementation.

1.2 Necessity of Improving the Villagers' Democratic Supervision Institution

Villagers' autonomy is a basic political system in which the majority of farmers directly exercise their democratic rights, implement self-management, self-education, and self-service according to the law. Its nature does not belong to government's level, it is an autonomous organization within a small range, and autonomous content is limited to self-management. Its core contents are democratic election, democratic decision making, democratic management and democratic supervision. Villagers' committee as its self-management agency, which was firstly appeared in the amendments promulgated formulation "Constitution" of 1982, article 111, provides that "villagers' committee is the grassroots mass self-government organization."

Democratic supervision, in order to protect the interests of farmers, is an important way to achieve democracy and freedom of the rights of farmers, and also an important means of promoting effective governance in rural areas and a important mechanism to curb corruption of rural cadres. Meanwhile, it is the protected link to realize villagers' rights, but it is currently the weakest link in "four democracies". Whether the democratic supervision institution is perfect directly relates to whether the functions of the villagers' master could be achieved.

Therefore, strengthening the villagers democratic supervision, training supervision and awareness of the villagers, improving oversight capacity and improving the supervision institution are important links and institutional

protection for the protection of the villagers' legitimate rights, nomocracy in rural areas and even the achievement of the task of ruling the country by law. In addition, the improvement of the supervision of the villagers institution bases on the following objective needs: 1. a need to strengthen rural grassroots cadres responsibility; 2. a need to make up for defects in the system of village-level management in our country; 3. a need to improve villagers' self-government and the efficiency of their autonomy and throughout the countryside; 4. a need to contain village cadres' corruption; 5. safeguard and realize the important guarantee of the vital interests of the majority of peasants.

2. TWO. THE STATUS OF THE VILLAGERS' DEMOCRATIC SUPERVISION

2.1 The Results of Villagers' Democratic Supervision

At present, in China's rural areas, the realization of the rights of the villagers has made great progress regarding both depth and breadth. In China's rural areas, most villages establish the villagers' committee by law, and then led by:" the people's governments of towns, ethnic towns guide, support and help the village committee's work, but should not interfere with the autonomy of the villagers matters within the law . "Among them, the set up of democratic supervision institution, on one hand played a role in the feedback mechanism, one the other hand it also has a strict correction function to promote the formation of the villagers' self-management system more effectively. Supervision, in a sense, is both a pressure and a driving force. The actual carrier of supervision institution of rural areas is villagers 'committee, it makes the original intention of villagers' autonomy and some villagers' rights and aspirations realized. Such as: publicizing the village affairs, establishing the villagers' participation of politics, implementing the financial audit , establishing the reporting system of work and so on. The vast majority of villages handle public affairs and public welfare referring to " People's Republic of China Organic Law of Villagers 'Committees ", the villagers' committee and its members adhere to the mass line, serve villagers taking the principle of majority rule enthusiastically, mediate civil disputes, and help maintaining social order.

The party's fifteenth Plenary Session's "CPC Central Committee's certain major issue decision on agriculture and rural work" pointed out, "strengthens the building of rural grassroots democracy and legal system". Many rural areas have made significant achievements in the establishment of a democratic supervision institution. " Village affairs supervisory committee " successively appeared in Anyuan County of Ganzhou City of Jiangxi

province, and Jia lanban village in new district of Hohhot after a long gestation. This approach is a pioneering work in our rural democratic supervision history, it makes the villagers are able to participate better in the management of village affairs, improve the villagers' supervision ability, promote the work of village committee in accordance with law, and concentrate the people's wisdom and promote the completeness of the system of the villagers' rights.

2.2 The Problems to Be Solved of the Villagers' Democratic Supervision Institution in China

In the past 30 years, China mainly works around the central theme of democratic elections in villagers' self-development. So, the academics has regarded that, rural construction has entered into a "post election period". However, because of the other three sectors of the villagers' democratic rights, especially the serious lagging of the construction of democratic supervision system, theorists and practitioners are generally believe that, at present, rural democratic construction is still "leaning democratic". At the present stage, it can be said that village democratic supervision institution is difficult in the process of rural operation, and there are many kinds of problems, which can be roughly divided into the following aspects:

a. The national legislation and the local legislation is not perfect, which is lack of guidance and protection of practical operation and procedure;

b. Rural grassroots cadres' legal consciousness is not strong, democratic appraisal system is not scientific, the villagers committee reports irregularly etc.;

c. villagers' consciousness of their own rights is weak, soam villagers are lack of confidence, unwilling to supervise, can not supervise, or do not dare to supervise, and the dismissal right implemented to village committee members is ineffective etc.;

d. Village affairs are not open, not fully open, not opened in time, not really opened, etc;

e. Rural infrastructure lags behind, which can not guarantee the implementation of the supervision institution.

(Three) the analysis on problems and reasons of villagers' democratic supervision institution

The problems are mainly caused by the following reasons:

a. Laws and regulations are not perfect. From the legal point of view, China only has village committee organization law. But because of the history and special national conditions of our country, China firstly introduced the organization law, which is bad for the protection of villagers' fundamental rights.

In addition to the existing "Law of Villager Committee Organization of People's Republic of China" and the local "villagers committee organization and implementation measures" , their provisions are comparable principle,

which makes the principle provisions difficult to implement because of lack of procedural law guarantee. At the present stage, in addition to a specific, operable "measures of election of villagers committee" in terms of democratic election, our country has not yet introduced the supporting laws and regulations to democratic supervision.

The issues on the village committee's employees wages in the process of working, conference expenses and entertainment expenses, etc. are not included in the scope of publicizing general village affairs, has created a vacuum on management regulations, policies and supervision. Some places implement artificial management blindly, in which village secretary or leaders have the final word, and even "the local emperor" appears. On the contrary, some places have no corresponding legal provisions on the village cadres' authority, village cadres do not dare to make decision because of fear of liability, and be negative to management obligation, evade management responsibilities, leading to the low efficiency of autonomy.

b. Rural cadres and members of village committee as the carrier of village level units, and also the subject of management, there is a relation of "trust" and "agent" among them. The village committee as a link of village autonomy, the quality, legal consciousness and the restriction of power ability of its members play a crucial role in the process of democratic supervision.

Democratic appraisal as a basic link in the democratic supervision makes the supervision of village cadres reflected in the feedback, and can effectively correct the rural cadres' adverse political style, so as to improve and innovate methods of work. At the same time, appraisal system is not scientific, the Council's statistics and summary is not comprehensive and not reasonable, also restrict the formation of an effective system of supervision institution.

c. The villagers are master of self-management, and are also the subject of supervision mechanism. The democratic supervision has characteristics like direct participation and the broad mass character, which is more conducive to improve the democratic supervision. However, these characteristics of the democratic supervision still can not be effectively reflected, the reason is: Many villagers still have the traditional political psychology of forbear going, small-scale peasant economy values, conservative view and poor education, which cause they do not dare to justice, and lack of ability to distinguish right from wrong and lack of scientific attitude seeking truth from facts. In this way, lack of supervise consciousness and power lead to the supervision subjects' weak ability to restrict the power, and make the implementation of democratic supervision go to a deadlock.

d. Opening village affairs is the main means of villager's democratic supervision. From the view of practice, opening village affairs still has many problems.

Besides the provisions of several major issues, there are many affairs opened afterwards among our existing law and policy of opening village affairs, which is lack of the most critical disclosure and supervision beforehand. Even if the major village regulations and policy, if there is absence of effective supervision, they also may be artificially avoided or evaded supervised, leading to formalization. In fact, in some places, the open village affairs is, village affairs publicity or announcement, becoming a false publicity, semi-publicity, even not open.

e. Since China's rural implemented the household contract responsibility system, because of the development mode of urban-rural dual economy, though the majority of peasant household economy has developed greatly, the rural economy is still relatively backward, the village's collective economy development is very slow, and some villages have a serious shortage of talent, capital, technology, information, management and other resources, restricts the development of village public utilities and infrastructure construction, dampened the enthusiasm, initiative and creativity of farmers to a certain extent, which has affected the villagers' exertion effectively in supervision. The situation in some villages all over the country show that, it is common that rural grassroots organizations are in paralysis or half paralyzed, out of the question that the establishment of democratic supervision mechanism. The author thinks, get to the bottom, the problems of supervision mechanism of our country, are caused by defects in the system of laws and regulations. "The CPC Central Committee's decision on several major issues concerning agriculture and rural work" clearly pointed out, "Villagers' autonomy, the system construction is the fundament. Democratic supervision system is the key, whose main content is to open village affairs, democratic appraisal and the villagers Committee regularly report its work." In order to guarantee the democratic supervision into effect, it is necessary to study how to make special laws and regulations about the democratic supervision, increase the supervision system's supply, make sure there is law to go by, supervise strictly according to law, reduce uncertainty in supervision operation.

3. IMPROVE THE VILLAGERS' DEMOCRATIC SUPERVISION MECHANISM

3.1 Further Put Forward the Countermeasures From Macro Level

Report of 17th CPC National Congress pointed out, "improve the mechanism of restraint and supervision, and ensure that the power entrusted by the people is always used for the people's interests. Ensure that correctly exercise the power, which must be exercised under the

sunshine. To adhere to control power, work and personnel by the institution, establish and improve the power structure and operation mechanism, in which the decision-making right, executive right and supervision right are of coordination and mutual restriction. "The Party conducts the grassroots democracy as the basic project, pointing out the ways and means to promote democratic supervision mechanism in new rural construction for us.

A perfect democratic supervision institution is made up of each mutual connected and coordinated system. Oppositely, the imperfect institution likes the shortest plank in the barrel theory. Therefore, we must start from the institution to perfect the mechanism of democratic supervision. Comrade Deng Xiaoping once pointed out: "institutional issue is more about fundamentality, overall situation, stability and long-term."

To sum up, to perfect the mechanism of supervision of the villagers, we must take the system construction as the priority, and try to make it form a kind of mutual restriction, mutual promotion and the relative stable democratic supervision mechanism.

3.2 Specific Measures to Improve

3.2.1 To Establish a Supervision and Security Institution, Make the Supervision Go With Law, and Implement Supervision

At present our country's democratic supervision is apparently lack of institutional arrangements. The legislature should revise the relevant existing laws, and set new supporting law, define the subject of supervision, contents of supervision, ways of supervision, supervision procedure, remedy, the content of penalty, the discretionary authority of supervision, make the villagers' supervision reasonable, every detail goes with the law, and make the measures more suitable to local conditions for all the villagers to realize supervision right.

Nationally, there is no fundamental procedural law suitable for overall situation and unity; therefore, the priority is the overall plan, drafting and timely introducing the related procedures and regulations, combining with the policy file, forming a guarantee system in democratic supervision during operation.

Amend the existing "Organic Law of Villagers 'Committee of People's Republic of China", such as extend "villagers' committee implements the system of open village affairs", describe it in provisions that open by whom, how to open, when open, extent of open, etc. It should also add remedy measure, if there is any semi-open, fake or not open phenomenon, the responsible person should be given the appropriate punishment in accordance with related terms, according to the circumstances, who can be dismissed, and who are willful and with malicious collusion causes serious loss of the state or collective property, or causes villagers' personal property losses or personal injury, shall be investigated for criminal liability and civil liability.

We should formulate "Village Committee Organization Law Implementation Measures" according to the local demographic, economic, environmental and other specific circumstances. The "Implementation Measures" of different places can be divided into chapters and specially stipulate democratic supervision sectors, such as establishing village monitoring committee, whose role is to organize democratic appraisal, supervise open village affairs and whether committee report on the work program is legal, whether the matters are true, are comprehensive and timely, and its members are elected directly by the villagers' meeting, and shall be performed by the committee members.

Supervision committee should attend village meetings involving important interests of the masses, and supervise the decision-making later; prior audit, supervise in the process and remedy later on village affairs, and examine the most important lists and reimbursement involved in financial disclosure, and expand the scope of financial disclosure to public spending; recommend the village held the villager representatives meeting on issues related to vital interests of the villagers, and also can bring about the matter in accordance with the wishes of the majority of the villagers to the township government; For decisions not in accordance with the provisions of village affairs management system or decisions made with a serious violation of the villagers wishes and harm their interests, could propose abolition suggestions or draw on the level agencies to revoke; participate in the evaluation for village committee members, according to the principle that minority is subordinate to the majority, request to recall the incompetent village committee members, and start recall procedure by law after report to the village Party branch, the party committee, government; and also can base on the requirements of the majority of the villagers and the village representatives, apply in written form to the village hearing, particularly on those issues involving collective land or other public utilities.

3.2.2 Strengthen Rural Cadres and Team Building for Escorting Democratic Supervision

President Hu Jintao pointed out: "Need to effectively rationalize the relationship between the branch and the village, to establish a villagers' running mechanism of self-government under the leadership of the Party branch." The village committee plays a key role in rural construction. Currently, on one hand the village Party branch leads farmers to get better life, on the other hand it directly involves in the management of village affairs and decision-making and supervise affairs of village committee. Party branch exercise the right of suggestions, criticism and supervision on village affairs, which should change the way of leadership, that transfer the previous decision-making power on village affairs to villagers meeting or village representatives meeting, change the original function as both "player" and "referee" before;

Meanwhile, the village Party branch members should strengthen their quality, learn the scientific concept of development, emancipate the mind, provide places and other conditions for Constitution learning and promoting democracy for local farmers, encourage farmers to participate in learning activities to enhance awareness of democracy and focus its own work on the propaganda of party's principles and policies, on the ideological education of party members, on how to speak for the masses, on the safeguard of the masses' interests and contact the masses close, be the true representative of the interests of the masses; Villagers' committee manages the affairs of the village on behalf of the villagers, implement the village committee director responsibility system and accept the supervision of the villagers and supervision committee; village party secretary does not serve as director, members of the village Party branch will no longer serve party posts after elected as village committee; village Party branch should become convener of the villagers meetings or villagers' representative meetings and organizer of village election committee, and actively cooperate with the supervision Committee, to oversee the management of village affairs, review the democratic appraisal, scientific analyze and summary the results of the appraisal, in order to improve and innovate methods of work.

3.2.3 Strengthen Farmers' Awareness of Democratic Supervision, Training the Qualified Subjects for the Democratic Supervision Mechanism

The majority of farmers are deeply influenced by the traditional culture, peasant economy, and natural economic, so their concepts are still relatively backward. Rural areas should carry out various legal campaign, set up a "working group of rural Popularity of Constitution," build a rural Popularity of Constitution work group who have a strong sense of democracy by the local workforce who composed of outstanding legal talent, specializing the work of Popularity of Constitution in a long time in rural area.

Broaden supervision and reform supervision methods, and enhance the villagers' consciousness and passion to participate in the democratic management and supervision, to make the villagers confident, dare to supervise, can oversee and have the ability to supervise; crack down on bad habits like fortune-telling, burn incense and pray of feudal superstition which replace democracy and the rule of law, put an end to any cult into the countryside; village cadres should be the leader in the construction of spiritual civilization, enhance farmers' awareness of democracy and the rule of law, establish the concept of standard of right, and protect the villagers' right to know, to participate, to express, and to supervise according to the law; villagers manage the village affairs and public utilities through the village committee, and enjoy the corresponding benefits, exercise democratic

supervision over the village cadres, and villagers can exercise the power of remove through village meetings or directly report to the village committee and start removal procedures if village cadres are found having moral issues or significant problems violated to villagers' interests.

Establish and improve the related feedback system to enable the villagers to exercise ownership and supervision powers on village affairs freely, maintain the villagers' right of petition, any organization or leader can not strike and revenge; establish incentive institution of suggestions, give material rewards to encourage the majority of the villagers to participate in the democratic supervision; actively guide college graduates return to the countryside, reserve personnel for rural area, expand democratic channels, and promote the healthy development of rural democratic supervision.

3.2.4 Open Village Affairs All-Round, Creating a Transparent Monitoring Mechanism

First, strictly standardize the village affairs' content in institution, clear the fourth provision of several matters in "Village Committee Organization Law", such as water and electricity fee, the villagers health insurance matters, the villagers collective property like the collective land which involve villagers' interests, workers' wages, public spending accounts of collective tender matters; secondly, clearly define village affairs time and duration, each village affair has the institution of public and solicit comments beforehand, then public and accept supervision, later public and summary report, and set a final extension of time, such as if the public does take time to collect the data, can extend for 10 days, if it is not open, not true or not timely disclosure, villagers or the supervisory board is entitled to supervise its open, or report to the people's government of townships, nationality townships and towns or county government and the competent departments, the relevant government authorities should verify the due diligence, if it has not yet disclosed in the last extended period, the penalty mechanism can be activated, and investigate the main person or village director who is responsible for;

Then, create a variety of public, in addition to the usual bulletin boards, publicity column, can use the work presentation, summary, and other forms of collective issues reports and distribute to each household, and add a supervision report column, provide convenience to supervision and truly open; Finally, the villagers' committee should ensure the authenticity of published content, and accept the supervision of the villagers, the village head has direct responsibility to the truthful disclosure.

3.2.5 Accelerate Rural Economic Development, Governments at All Levels Provide Policy Support

Develop village collective economic, ensure its healthy operations, and improve efficiency in the use of funds, so as to enable the villagers to run supervision mechanisms

have financial security, in order to proactively carry out supervision missions; governments at all levels support the operation of rural financial supervision mechanism, it can also be funded by a variety of economic organizations or voluntary service by the villagers, give compensation or subsidies to for the villagers with clear oversight responsibilities and members of the supervisory committee, give a one-time award to the key personnel of active supervision, and the specific amount is discussed and decided on the circumstances by the villagers' meeting; build various facilities in rural areas, protect the villagers living standards continuing to improve, so as to mobilize villagers to dynamically play their main role in the realization of a more comprehensive supervision.

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