Chinese Administrative Law in Transitional Society

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Administrative law is the law relating to the control of government power.[1] Governmental power refers to the administration or to the executive power. The primary purpose of administrative law is to keep the powers of government within their legal bounds, so as to protect the citizen against their abuse.[2] In the Chinese legal system, administrative law is defined in essence as the law relating to the control and definition of the executive power.[3] Since 1989, the administrative law has been developing not only in legislation so that more regulations are being enacted, but also in the research field more researchers begin to concentrate on it. As the administrative law is developing more recently than civil law and criminal law, there are various contents and mechanisms in different countries. In spite of the Confucian tradition in Socialist-China, administrative law has been developed over the last twenty years and manifests distinct characteristics of a one-party state. We introduce the basics of Chinese administrative law in the light of the basis of the characteristics of the political system and legal system.

PART 1. FUNDAMENTAL PRINCIPLES

It is usually difficult to make a codification of administrative law, which is, in many cases, a combination of principles and rules concerning the administrative process. Setting the essential rules for administrative activity is neither an end in itself, nor a sufficient guarantee of flawless procedure. While procedural rules provide the essential framework for administrative activity, they have not covered all cases in a changing society. The principles of administrative procedure fill a gap in the law. The general principles govern the whole process of administration and guarantee the citizens' rights in administrative management.

1.1 Development of General Principle

The development of Chinese administrative legal system can be divided into four periods since the foundation of the People's Republic of China in 1949. From 1949 to 1966, the political system of China was a Socialism based on Marxist ideology with three characteristics: monopoly of power held by the Communist Party, state ownership of property and the central planning of production. The government had power to manage everything for the people, including the distribution of basic necessities, the planning of production, and the whole economic system. The administrative regulations concemed organization, management and supervision, while the principles of administrative law were derived from the political policy, for example, the government should administer in the interests of the Communist Party and the people. Legal principles hadn't been established in China during this period. From 1966 to 1977, the Cultural Revolution put the legal system into a standstill. The high-ranking leadership in China accepted the ideology of rule by man instead of management based on legal theory. The construction of the legal system was pushed into a corner. From 1978 to 1989, China began to carry out a series of reforms and reestablish the legal system. Due to the one-party state political system, the administrative management was rigid and power-oriented through the whole society. With the advent of an open policy, many researchers recognized that the legal system should be developed in many fields and the principles of administration should be changed from rule by man to rule by law. Owing to the reforms, and to the study of the more developed countries' experiences, the top leaders of the Communist Party realized the importance of constructing a legal system in China so that many new laws and regulations were adopted, including the first Administrative Litigation Law(ALL)

enacted in 1989. At the end of the 1980s, the principles of administrative law were developed from a political-oriented set of statements into a set of legal statements. Before 1989, the government acted according to the political policy of the Communist Party, instead of according to the law. The principles of administrative law had been established on the basis of the political policy of the Party, instead of on the basis of legal theory. The power-oriented principle was dominant in the whole administrative process. Luo Haocai addressed firstly the principles of administrative law from a legal viewpoint in 1989.[4] He drew out the principle of administrative legality and the principle of administrative reasonableness. Administrative legality requires that each agency shall behave in accordance with the law, both substantially and procedurally; any agency action that exceeds its authority or jurisdiction shall be considered invalid (ultra vires); abuse of executive power of any kind shall be held accountable; judicial review should be available as a remedy. The principle of administrative reasonableness demands that whatever is being dealt with, the motivation, the purpose, the reasoning and the decision of the discretion should be reasonable.[5] These two principles of Luo Haocai became the foundation stone of the administrative legal system in China.

1.2 The Principles of the Currently Enacted Laws

Ten years of reforms have resulted in a great development of the basic theory of administrative law. The Administrative Litigation Law was promulgated in 1989 and from then on administrative law began to flourish academically and in legislation. As an important part of administrative law, the principle of rule by law is being established in the administrative process. Being a transitional society, China has been changing from a traditional society ruled by man into a rational legal society ruled by law.[6] Under this circumstance, more detailed principles will be found scattered among different administrative acts. These basic principles are not simply ideas based on goodwill. They are embedded in applications and in the administrative process at all levels. The principles comprise legality, efficiency, openness and fairness.

1. Legality

Administrative Reconsideration Law Article 6 maintains that the administrative reconsideration follows the principles of being lawful, timely, accurate and convenient for the people. The principle of legality suggests that the public authority should execute and manage administration according to laws, rules and regulations. Against the background of transition from the initial stage of Socialist society to the democratic society, from a planned economy to a Socialist market economic system, the principle of legality manifests itself in the following ways: executive activities being in conformity with legal provisions, preventing abuse of discretion; accountability of the public authority; protecting the basic human rights.

2. Efficiency

The principle of efficiency is an important part of the operation of public administration in modern society. While the democratic society requires the govemment to act as a public service organ, the efficient and effective performance of the public administration becomes a basic criterion of good governance. The principle of efficiency is established on the basis of a cost-benefit analysis for the administrative activity to keep up with the speed of economic development in society.

3. Openness

In the Administrative Punishment Law Article 4, the principle of openness is regulated and, at the same time, the right of hearing is introduced for the first time into the administrative process. The principle of openness may be characterized as a cornerstone of democratic government and a modern society following the rule of law. It lays down that anyone may know the administrative aim and process, and simultaneously, it makes the external supervision and scrutiny of administrative action easier.

4. Faimess

The principle of faimess is also regulated in Article 4 of the Punishment Law, which requires the public authority to act justly without any bias. The performance of the public authority should be dispassionate in order to prevent causing an unjustified or unfair detriment to the general interest or to the right of the other interested parties.

PART 2. SOURCES OF ADMINISTRATIVE LAW AND RULE OF LAW

2.1 Sources of Administrative Law in China

The sources of administrative law are to be understood broadly and the hierarchy of statutes is presented as follows:[7]

1. The Constitution
2. Laws adopted by the National People's Congress (NPC) of China that govern administration, which are constitutionally termed 'basic law';
3. Laws adopted by the Standing Committee of the NPC goveming administration, which are termed 'ordinary laws';
4. Administrative regulations made by the State Council;
5. Local regulations made by constitutionally authorized People's Congresses and their Standing Committee at local levels;
6. Rules adopted either by authorized ministries of the State Council or governments at local levels, including the Minority Autonomous Regions;
7. Statutes interpretation made by the NPC and its Standing Committee as well as their organs at local levels, the Supreme People's Court, the Supreme Procuratorate and the State Council.

It is worth noting that because the nature and effectiveness of those sources have not been differentiated or explicitly stated, conflicts of laws prove to be a serious problem in the administrative legal system, for example, local rules adopted by local government conflict with the laws adopted by the NPC. There is no constitutional court to deal with the conflict between Constitution, laws and regulations.

Since 1989, the leadership of the Communist Party has realized the importance of democratization, modernization and the principle of the rule of law. During the 1990s, the state authorities paid much attention to the problem of controlling the discretion and power of the government, on the one hand, with the political reform going on more deeply; on the other hand, more laws and regulations concerning the executive activity were adopted or modified in order to be in conformity with the changing society. Among these laws, we shall just exemplify some essential ones that are related to administrative management.

In 1989, the Administrative Procedure Law on Litigation was promulgated by the NPC and enacted on 1 Oct, 1990. Article 1 of the Law prescribed the aim of enforcement of the Law. It is aimed to ensure the correct and prompts handling of administrative cases by the People's courts, protects the lawful rights and interests of citizens, legal persons and other organizations, safeguards and supervises the exercise of administrative powers by administrative organs through jurisdiction.

In 1990, the Regulations on Administrative Reconsideration were promulgated by the State Council and in 1994 the Decision to amend this Regulation was issued. In 1999, the Administrative Reconsideration Law was adopted by the Standing Committee of the NPC on the basis of the former regulations. It is aimed to provide the participants an opportunity to protect their interests insides the administration. The administrative body for reconsideration conducts review over the specific administrative acts and then makes a decision on the basis of the application from the citizens, legal persons or other organizations.

The State Compensation Law was adopted by the Standing Committee of NPC in 1994 and came into force on 1 January, 1995. The meaning of state compensation was explained in Article 2 of the Law, that is, if a state organ or a member of its personnel when exercising functions and powers in violation of the law, infringes upon the legal rights and interests of a citizen, legal person or other organization and causes damages, the

aggrieved person shall have the right to recover damages from the state in accordance with the Law. This can be viewed as an advance for both Chinese lawmakers and the public toward the understanding that the individual is an important factor affecting social development, since governments in China, for thousands of years, were immune from any legal investigation and punishment.[8]

The Administrative Punishment Law was adopted by the NPC in 1996. The Law concerns the punishing procedure, standardizing the administrative punishment, and the general principles of punishment processing. Administrative punishment refers to the legal sanction imposed by the executive organs on the transgressors when they breach the administrative regulations but do not seriously infringe the criminal law. Such sanctions may be concerned fines, imprisonment, and notification in the criminal register, and loss of property.

The Supervision Law regulates the internal supervisory system in the administration in which the supervisory organs are the administrative organs which watch over the state administrative organs, government functionaries, and other personnel appointed by the state administrative organs.

The Administrative Licensing Lawwas adopted by the Standing Committee in 2004 and will be enforced on 1 July, 2004. The Law deals with the administrative organs that provide applicants with permission an engage in special activities through an administrative investigation on the basis of an application from citizens, legal persons or other organization. Such a system includes the licensing of an enterprise.

2.2 The Rule of Law and Administrative Action

The concept of rule of law was introduced into China from the Western countries and the legal theorists realized its significance for constructing a modern legal system and a democratic state in China. After the 1978 reforms, Deng Xiaoping took his legal thinking into the Party's policy for many years as a sixteen-character phrase, "There must be laws for people to follow, these laws must be observed, their enforcement must be strict, and law breakers must be dealt with."[9] Until 1997, the 15th National Congress of the CPC explicitly incorporated the rule of law as a basic guiding principle in the Party's official document, and elaborated on the rule of law as a separate subject in the plan for the reform of the political system.[10] The development culminated in one of the constitutional amendments adopted by the 9th NPC at its second plenary session in March 1999. These amendments introduced the following sentence at the beginning of the Article 5 of the Constitution of China, "the People's Republic of China shall practice ruling the country according to law, and shall construct a socialist rule-of-law state."[11]

The principle of rule of law (or Rechtsstaat) denotes that the executive powers of administrative authority must have an explicit basis in law and be applied on the grounds regulated by law. The law that rules in a state subject to the Rule of Law is the people's law and not the ruler's law as in pre-modern states. While the ruler's law was often imposed by force on the people, the people's law is a product of the people's rational consent to its authority.[12] This rule-of-law principle applies when an authority makes a decision or other act that directly affects the rights and obligations of a person; in other words, when an authority exercises official authority.[13] The difference between the Rule of Law and the rule of men is that in the former case, authority is depersonalized, and where a conflict arises between the authority of the law and the authority of a powerful political leader, the law will prevail.[14] Therefore, the hierarchical levels in the sources of administrative law should be taken into consideration in the course of administrative activity in China. In order to establish the Rule of Law in practice in the Chinese legal system, China is continuing various reforms and especially developing the administrative legal system.

PART 3. THE ADMINISTRATIVE LAW SUBJECT

3.1 Introduction of Political System in China

The one-party political system was laid down clearly in Para. 7 of the Preamble of the Chinese Constitution, Amendment Three: "under the leadership of the Communist Party of China and the guidance of Marxism-Leninism, the Thought

of Mao Zedong and the Theory of Deng Xiaoping, the Chinese people of all ethnic groups will continue to adhere to the people's democratic dictatorship, follow the socialist road,..."[15] The Central Committee of the Communist Party of China (CPC) constitutes the core of the leadership and under it are the NPC and its Standing Committee, the Presidency, the State Council, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate work in their respective responsibilities acting according to the laws. The NPC is the highest power authority and the administrative, judicial and supervisory organs are produced from it and report their work to the NPC under the leadership of the CPC.

The State Council in China, namely the Central People's Government, is the highest executive organ of state power. It is responsible for carrying out the principles and policies of the CPC as well as the regulations and laws adopted by the NPC, and deals with such affairs as internal politics, diplomacy, national defence, finance, economy, culture and education. Under the current Constitution, the State Council exercises the power of administrative legislation, the power to submit proposals, the power of administrative leadership, the power of economic management, the power of diplomatic administration, the power of social administration, and other powers granted by the NPC and its Standing Committee.[16] The NPC has the power to check the legality and reasonableness of the administrative process. The People's Courts have the power to review concrete executive activities. The Procuratorate is the supervisory organ for investigating the individual activities of the officials in the government and in other power organs. Their relationship can be described schematically as following:

The NPC and its Standing Committee
The State Council The People's Court
The People's Procuratorate

3.2 The Public Administration

The subject of administrative law refers to the two principal actors within an administrative law relationship in executive activity and procedure; these are, the administrative law authority vested with executive power, and the private party. Chinese researchers exhibit a consensus on the conformity of the subject of administrative law with the administrative legal relationship subject. In detail, this relationship includes the public authority; the organizations executing administrative power, the officials in administrative organs and the private party. The public administration has four tiers in the whole administrative management system: the state administration, the State Council being the highest administrative organ; the Ministries and the provincial and municipal governments; county governments; and the lowest rural governments (township governments). There are, in addition, the governments of the special administrative regions, namely Hong Kong and Macau, which are established on the basis of "one state, two systems". The Organic Law of the State Council and the Organic Law of Local Government have regulated their responsibilities and functions transparently. The Contemporary Regulations for Civil Servants concern their rights, duties and their working relationship.

3.3 The Organizations Executing Administrative Power

The organizations executing administrative power comprise two forms of organizations: the organizations authorized by the laws and regulations and the organizations empowered by the administrative organs for certain tasks. The positions of the former organizations are equal to the public administration when they administer executive power. But their main functions lie in their professional scale, not the executive power, for example the Lawyer's Union. The Union guarantees the members' legal rights and interests, and punishes their illegal activities. The right and executive power are regulated in the Law of Advocate. The empowered organizations have the right to administer executive activities on behalf of the administrative authorities. They are not responsible for their administrative activities. Instead, the authority, which entrusts them, is responsible for such empowered activities, for example, the tax authorities can entrust some institutions with the power to impose small taxes and the authorities provide the certification for imposing taxes. In the Punishment Law Article 18,

the empowered organizations shall administer administrative punishments. The requirements for these organizations are regulated in Article 19 of the same law.

3.4 The Private Parties and Their Rights and Duties

The private parties refer to the participants whose interests are influenced by the administrative activity in the executive management process. Generally, they are legal entities outside the administration, for examples private individuals or an enterprise. The private parties stand as the object of the administrative management and the counterpart of the public authority. Furthermore, the participants also involve in the administrative activity and procedure, in which they have the right to provide their suggestions, proposals, requirements or other actions in decision-making. According to the enacted laws and regulations and jurisprudence, the private parties enjoin the rights described as follows in China:[17]

- The right of application
- The right to be heard
- The right to provide suggestion and complaint
- The right to issue reconsideration
- The right to take administrative litigation
- The right to require state compensation

The private parties also have duties in administrative governance due to the legal thinking that the duty coexists with the right in China. The duties of the participants are summarized as following:[18]

- To obey the management of the public authority
- To assist public activity
- To protect the public interest
- To offer actual information
- To abide by the legal proceedings

PART 4. THE ADMINISTRATIVE ACT AND PROCEDURE

4.1 The Concept of an Administrative Act

It is a precondition to the filing of an application for annulment that there should be an "administrative act" that can properly be made the subject of judicial review.[19] It is necessary to understand the exact meaning of the administrative act (activity). Since Otto Mayer's notion of "administrative act" in German administrative law,[20] the administrative act has become the core concept of administrative law. In its general meaning, the expression of "administrative act" denotes an activity that is attributable to a public authority.[21] But the definition is so simple that there are no distinct objects and purposes of an act. In China, the concept of administrative act is an academic form in a legal system, while the courts use it in practice according to academic research on the administrative cases.

The administrative act is the legal act made by the public institutions in their executive power for the private party.[22] The administrative act should be in conformity with the four factors: the existence of the executive power, the factual application of the executive power, the legal result and the form of application.[23]

4.2 The Forms and Functions of Administrative Activity

The very difference between European administrative law and Chinese administrative law lies in the fact that the administrative activity plays a dominant role in Chinese administrative legal theory. The explanations of researchers indicate that the substantive law is more important than the procedural law in Chinese administrative legal thinking. The theory originates in the traditional legal culture, and in the political system in China with the advent of Communism, the government arranged everything for the people and worked as the steward of the state during the period of the planned economic system. After 1978, with the economic reform and open policy, the functions of the government began to be transformed in various aspects. The working method of administrative organs has been transferring from

a power-oriented to one that is service-oriented since the government withdrew from micro-economic management. The forms and procedure used and the lines of action applied by administrative organs depend greatly on what kind of administrative duty is concemed.[24]

The modes of administrative activity are either abstract or concrete.[25] The former includes administrative legislation and the activity for laying-down regulations. The latter covers activities made directly to the specific participants, including administrative decision-making, economic acts and other factual acts.[26] The decision-making made by the administrative organ may be classified into two categories: one refers to the decision made according to the application of the applicants, for example, an administrative license; the other refers to a decision made on the basis of the power and authority of the administrative organs, for example, an administrative punishment. Moreover, the government no longer interferes in the economic affairs of various enterprises, but it is still involved in the macro-economic management in administrative proceedings, for example, the administrative contract or administrative procurement.

The classification of the administrative activity shows that the differences in the methods and forms of administrative acts are related to the different duties of the administrative organs. But these are all official activities concerning the interests and benefits of the participants. Due to the applicability of the most basic rules and principles of administrative law, the administrative activities are to be limited, controlled and supervised.

4.3 Administrative Procedure

Administrative procedure law concerns the working method, steps, time limitation and sequence while the administrative subject implements its activity. It is noteworthy that there are no exact regulations or laws on procedure law in China. In the traditional legal system, the substantive law is the main part of the administrative law so that some administrative procedures scatter in various administrative activity laws, for example, punishment procedure can be found in the Administrative Punishment Law. Some principles and working methods of the government have been established, for example, right of hearing, openness and efficiency. The development of these regulations may be consensus with the requirement of the rule of law and democratization in modern society.

While the economic reform goes on more deeply and the functions of the government changes, the procedure has to be formulated in order to guarantee basic human rights and provide legitimate circumstance for good governance. Recently in 2004, Human Rights have been put into the new Fourth Amendment of the Constitution by the 10th plenary of NPC. The new Amendment has greatly developed the protection of basic human rights and provides the infrastructure for realizing these rights in China. It is an urgent task to draft the Administrative Procedure Law in order to get a further advancement in guaranteeing human rights in the administrative working process. There are many research works being undertakes on the law of legal procedure and the theoretical work may become the basis of the drafting for procedural law. In short, some aspects should be taken into consideration in the procedural law:

- A service-oriented administrative doctrine should be established as the basis of the rule of law.
- The openness and fairness of the government of working process should be set out.
- The principle of the rule of law should be developed still further in administrative law, in particular in the drafting procedural law.

PART 5. THE JUDICIAL REVIEW OF ADMINISTRATIVE ACTION

The judicial review is a kind of supervision for executive power. It controls the exercise of the administrative power, and accordingly, provides remedies for individuals. The Administrative Litigation Law (ALL) and the State Remedy Law effectively provide the participants with the entitlement to get a remedy when the detriment takes place during the administrative processing. The purposes of the judicial review of administrative action lie in protecting the legal rights and interests of the citizens, the legal persons and other organizations, and in actively

safeguarding and supervising administrative agencies to execute according to the law. Generally, the Chinese litigation system has the following characteristics:[27]

1. The jurisdiction of the People's Courts on administrative cases is regulated in APL. The list of specific administrative acts is initiated in the judicial procedure in Article 11 of ALL. The exceptions are also prescribed in Article 12. The Courts have no power to review the following actions: state actions like national defense or foreign affairs; administrative legislation; internal decisions for personnel concerning awards, punishment or removal and, appointment; specific acts that shall, as prescribed by law, be finally decided by an administrative organ.
2. The examination of the legality of administrative acts is the responsibility of the courts. In Article 5 of ALL, the courts shall examine whether or not the specific administrative act is legal. The regulation excludes the reasonableness of the administrative acts.
3. The People's Procuratorates have right to supervise the administrative process. In Article 10 of ALL, the power of the people's procuratorates is established but without a detailed rule about the supervising. In practice, the procuratorates' access to the administrative procedure origins where the cases concern the criminal law.
4. The participants whose rights and interests are infringed may appeal to the higher administrative organ or to the People's Courts directly.
5. Although the Article 3 of ALL lays down that the courts exercise judicial power independently over administrative cases, the practical situation varies. The power of the administrative authority is often so strong in practice that it can intervene in the examination of the courts on specific cases. Controlling power and limiting the discretion of implementation and establishing an independent judiciary are the main tasks of the state in these years in China.
6. The scope of investigation needs to be broadened with the development of the economic and political reforms. The executive activity influences social life and the stability of the state while the administration is becoming more complicated than before. In order to strengthen the quality of a judicial review over the administration, the review scope should be broadened in order to control the expanding executive power.

PART 6. PERSPECTIVE

After the 1990s, the administrative legal system developed so rapidly and there is much evidence of that. Administrative legislation has been greatly extended and many administrative acts have been standardized; officials and public organs pay much attention to the legality of their management. The principle of the rule of law is the goal of the development of the legal system. However, there are still many tasks to be undertaken in order to establish a rational legal system and the democratization of the state. Administrative law is a key mechanism for improving government regulatory policies and increasing the predictability, openness and fairness, while, simultaneously, preventing the corruption of the whole state. With the profound economic reform, it is an urgent matter to establish administrative-procedure regulations in China in order to guarantee the basic human rights in the administrative process.

We are trying to transform the working principle of rule by man into the principle of rule of law. From the above-mentioned materials, we see that a rather important issue has been neglected greatly in Chinese administrative law. That is how to guarantee the basic human rights during the activities and processes of the executive. The Constitution has regulated basic human rights, but the administrative law fails to crystallize these into regulations and laws. Due to the unequal position between the authority and the participants in the course of executive management, it is important to emphasize equality before the law and other human rights in connection with administrative law. More studies should be made in order to guarantee the basic human rights. Due to the pervasive influence of the government on various activities in society, controlling the discretion appears to be an important problem in the administrative process.

The Internal Supervisory Regulations of the CPC has been promulgated in 2004 and the internal supervisory system is developing in the CPC. However, in the Party-state political system, we should also strengthen the power and the rights of another supervisory organ, the Chinese People's Political Consultative Conference, so that the proposals, suggestions and criticisms from the other political parties could be integrated into the administrative law. At the same time, in order to control the power of administration, we should strengthen the supervisory power of the Nation People's Congress. More studies are needed to develop the controlling system between the legislative system, the administrative system and the judicial system.

NOTES

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[1] Wade, William & Forsyth, Christopher: Administrative Law, Eight edition. Oxford University Press. Oxford 2000, pp.3-5.

[2] Ibid., p.5.

[3] Jiang Mingan, ed. Administrative Law and Administrative Litigation. Beijing University Press, 1999. p.13.

[4] Luo Haocai, ed. Administrative law, Chinese Political Science and Law University Press, Beijing 1989, pp.34-45.

[5] Xi-xin Wang, Administrative Law in China's Changing Society, internet: http://www.enstar.co.uk/china/law/blw/art_administrative.htm

[6] Yufan Hao, From Rule of Man to Rule of Law: an unintended consequence of corruption in China in the 1990s, Journal of Contemporary China 1999, 8(22), pp.405-423

[7] c.f. Xi-xin Wang, Administrative Law in China's Changing Society. Jiang Mingan, ed. Administrative Law and Administrative Litigation Law, p.31.

[8] Yufan Hao, From Rule of Man to Rule of Law: an unintended consequence of corruption in China in the 1990s, Journal of Contemporary China 1999, 8(22), pp.405-423.

[9] The words were first emphasized in the communiqué of the watershed Third Plenum of the 11th Central Committee of the Chinese Communist Party in Dec. 1978. See, Albert H.Y. Chen, Toward A Legal Enlightenment: Discussion in Contemporary China on the Rule of Law, UCLA Pacific Basic Law Journal, vol.17, No: 2&3, pp125-165 (1999/2000).

[10] Zhenmin Wang, The Developing Rule of Law in China, internet: http://www.fas.harvard.edu/~asiactr/haq/200004/0004a007.htm

[11] Albert H.Y. Chen, Toward A Legal Enlightenment: Discussion in Contemporary China on the Rule of Law, UCLA Pacific Basic Law Journal, vol.17, No: 2&3, pp125-165 (1999/2000).

[12] Ibid, P133.

[13] Olli Mäenpää, Administrative Law, An Introduction to Finnish Law, edited by Juha Pöyhönen, Helsinki 2002, P405.

[14] Albert H.Y. Chen, P133. Zheng Chengliang et al., "The Essence of the Jurisprudence of Ruling the Country according to Law".

[15] Amendment Three of the Constitution, approved in March, 1999. Internet: http://china.org.cn/english/features/89052.htm

[16] Chinese Constitution, Article 89. Internet: http://china.org.cn/english/features/89012.htm

[17] c.f. Jiang Mingan, P133.

[18] ibid, P133

[19] Zaim M. Nedjati & J.E. Trice, English and Continental Systems of Administrative Law, Amsterdam 1978, P73.

[20] Ibid, P74.

[21] Ibid, P74.

[22] Jiang Mingan, P141.

[23] Ibid, pp150-153.

[24] Olli Mäenpää, Administrative Law, An Introduction to Finnish Law, edited by Juha Pöyhönen, Helsinki 2002, p.409.

[25] C.f. Jiang Mingan p.149; Luo Haocai ed. Administrative Law, Beijing University Press 1996, p.107.

[26] Ibid.,p.149. C.f. Ying Songnian ed. Administrative Activity Law, People's Press, 1993, p.10.

[27] C.f. Luo Haocai, New Development in the Administrative Litigation system of China. Internet: http://www.enstar.co.uk/china/law/vm_articles/items/item18.htm

REFERENCES

H.W.R. Wade, Administrative Law, Clarendon Press, Oxford, 1988.

Zaim M. Nedjati & J.E. Trice, English and Continental Systems of Administrative Law, Amsterdam 1978.

Jiang Mingan, ed. Administrative Law and Administrative Litigation . Beijing University Press, 1999.

Luo Haocai, ed. Administrative law, Chinese Political Science and Law University Press, Beijing 1989.

Xi-xin Wang, Administrative Law in China's Changing Society, internet: http://www.enstar.co.uk/china/law/blw/art_administrative.htm

Yufan Hao, From Rule of Man to Rule of Law: an unintended consequence of corruption in China in the 1990s, Journal of Contemporary China 1999,

8(22).
Albert H.Y. Chen, Toward A Legal Enlightenment: Discussion in Contemporary China on the Rule of Law, UCLA Pacific Basic Law Journal, vol.17, No: 2&3, (1999/2000).
Zhenmin Wang, The Developing Rule of Law in China, internet:
http://www.fas.harvard.edu/~asiactr/haq/200004/0004a007.htm
Olli Mäenpää, Administrative Law, An Introduction to Finnish Law, edited by Juha Pöyhönen, Helsinki 2002.
Ying Songnian ed. Administrative Activity Law, People's Press, 1993.
Luo Haocai, New Development in the Administrative Litigation system of China. Internet: http://www.enstar.co.uk/china/law/vm_articles/items/item 18.htm
Amendment Three of the Constitution, approved in March, 1999. Internet: http://china.org.cn/english/features/89052.htm
Chinese Constitution, Internet: http://china.org.cn/english/features/89012.htm
Administrative Litigation Law (Administrative Procedure Law in the internet), internet: http://www.cecc.gov/pages/newLaws/adminLitigationENG.php
Administrative Punishment Law, internet: http://www.qis.net/chinalaw/lawtran1.htm
Administrative Supervisory Law, internet: http://www.qis.net/chinalaw/lawtran1.htm
State Compensation Law, internet: http://www.cecc.gov/pages/newLaws/stateCompensationENG.php
Administrative Licensing Law (no English translation).
http://www.enstar.co.uk/china/law/vm_articles/items/item18.htm