



AgEcon SEARCH

RESEARCH IN AGRICULTURAL & APPLIED ECONOMICS

The World's Largest Open Access Agricultural & Applied Economics Digital Library

This document is discoverable and free to researchers across the globe due to the work of AgEcon Search.

Help ensure our sustainability.

Give to AgEcon Search

AgEcon Search

<http://ageconsearch.umn.edu>

aesearch@umn.edu

*Papers downloaded from **AgEcon Search** may be used for non-commercial purposes and personal study only. No other use, including posting to another Internet site, is permitted without permission from the copyright owner (not AgEcon Search), or as allowed under the provisions of Fair Use, U.S. Copyright Act, Title 17 U.S.C.*

No endorsement of AgEcon Search or its fundraising activities by the author(s) of the following work or their employer(s) is intended or implied.

Legal Control Paths for Corruption of China's Rural Cadres

Dongfang CHEN*

Anti-corruption Research Center, Railway Policy College, Zhengzhou 450053, China

Abstract The corruption problem of China's rural cadres has exposed the weakness of the absence of legal control in rural administration. In the face of the problems in the legal control of corruption in rural cadres, it is required to improve the laws and regulations, strengthen law enforcement, and strengthen the supervision and guidance of higher-level party committee and governments to bring the corruption of rural cadres into the rule of law.

Key words China, Rural cadres, Corruption, Legal control, Path selection

1 Introduction

In July 2014, the Central Leading Group for Inspection Work stated in the work report that the corruption problem in some rural areas was prominent, and gross corruption of small cadres was serious. These corruption cases occurred in the masses, so they not only damage the vital interests of the masses, but also bring dramatic losses to the state and collective property, and undermine the prestige of both the party and the government. The corruption of rural cadres reflects ugly soul and distorted view of power, and from the root source, it exposes the weak point of legal control of corruption in rural areas.

Decisions of Some Major Issues Concerning Comprehensively Promoting the Rule of Country by Law issued by the Fourth Plenary Session of the 18th Central Committee of the CPC set forth the objective of promoting the legal control at grassroots level. At the lower end of China's administrative region, rural area should not become the vacant part of corruption control. For the legal control of grass-roots administration, main work should be placed in grass-roots areas. The corruption control of village cadres should be included into the legal administration of the state. In grass-roots areas, it is required to promote legal administration in administrative areas including counties, towns, and villages (communities), include the economic, political, cultural, and social work, to lay a solid foundation for construction of rule of the country by laws.

As an agent of grass-roots mass organizations of self-government, village cadres play an important role in safeguarding the immediate interests of the people, safeguarding their democratic rights, and promoting rural economic and social development. However, with the rapid advancement of urbanization and new socialist countryside construction, the corruption issue of village cadres has become more and more serious in the whole country, particularly in project construction, land acquisition and demolition, financial management, and collective asset disposal, land compensation funds, disaster relief, poverty alleviation and other funds and materials.

2 Problems in legal control of corruption of China's rural cadres

2.1 State legislation urgently to be improved At present, there is still no special law formulated for corruption administration. Thus, there is no macro legal guidance and feasible legal basis for rural cadre corruption. According to Article 93 of the *Criminal Law of the People's Republic of China*, village cadres may be sentenced for corruption only when they illegally accept or obtain the property of others in the process of "work in the public service". Nevertheless, rural cadres are leaders of autonomous organizations and do not belong to state personnel. In practice, it is often difficult to distinguish between public affairs and individual actions. In particular, corruption and misappropriation of village collective funds often lead to lack of evidence to prove whether they are public funds or collective fund, which increases the difficulty for the judicial authorities to investigate such cases. Besides, the scope of the above behavior is too narrow, so it is impossible to completely block the rent-seeking space in the process of new countryside construction.

2.2 Statutory supervision mechanism facing realistic challenge In recent years, in the process of rural anti-corruption, although some provisions have been included to promote the building of party style and clean government in rural areas and strengthen the management of rural cadres, with the changes in the rural situation, many systems and regulations have been challenged. According to Article 13 of *Organic Law of the Villagers' Committees*, the villagers assembly shall be composed of villagers at or above the age of 18 in a village. The villagers assembly shall be convened with a simple majority participation of the villagers at or above the age of 18 or with the participation of the representatives from at least two-thirds of the households in the village, and every decision shall be adopted by a simple majority vote of the villagers present. When necessary, representatives of the enterprises, institutions and mass organizations located in the village may be invited to attend the villagers assembly without the right to vote^[1]. These provisions are very difficult to operate for the vast central and western rural areas that have become hollow. There is loophole in the legal supervision.

2.3 Weak party discipline and laws and regulations At present, the corruption administration of village cadres is mainly limited to the disciplinary regulations and administrative rules within the party. Many aspects have not been lifted to the legal level. Some areas have adopted the method of penalizing the corruption of village cadres and replacing the judicial investigation with the organizational punishment, which objectively indulged the corruption of the village cadres. Some areas issued regulations concerning the construction of party style and clean government, such as *Provisions on Rural Cadres Performing Responsibilities in an Honest Manner*, and *Methods for Management of Rural Cadres*, but they have not made clear the procedures for the implementation of the system, responsible parties, evaluation criteria, etc. Thus, it is still very difficult to make higher-level quantitative assessment and accountability.

2.4 Inadequate judicial intervention Due to heavy work of investigation of criminal cases, most public security organs have the idea of "stressing the big cases while neglecting small cases". Thus, the corruption of rural cadres fails to attract attention of the public security organs, and the public security organs are not the only authorities responsible for corruption control. In the assessment mechanism, due to the low level of grassroots cadres, the amount of crimes is often small, and grassroots disciplinary inspection and supervision organs often are slack at the investigation and punishment of rural cadre corruption cases. As to the institutional setting, there is no relatively independent and authoritative corruption management department in rural areas. The township disciplinary inspection and supervision agencies responsible for the rural anti-corruption have not been able to eradicate the corruption of the village cadres because of the focusing on investigation after occurrence of corruption cases. In addition, rural cadres have a large local power and complex human relations, which often interferes with the independence of judicial organizations in handling cases and affects the impartial administration of justice in the local judicial department.

3 Legal control paths for corruption of China's rural cadres

3.1 Improving the legal system for corruption control of rural cadres

3.1.1 Accelerating the formulation of the *anti-corruption law*. The 12th National People's Congress has included the formulation of anti-corruption law in the plan. The formulation of anti-corruption law will provide a more direct basis and guidance for corruption control of village cadres. Once the anti-corruption law is formulated, it will effectively promote rural anti-corruption work from a temporary cure to a permanent cure.

3.1.2 Improving the supporting regulations to block the legal loophole. For the loophole in *Criminal Law*, it is required to promptly make supplement and revision of corruption control of village cadres, particularly lifting the *Information Disclosure Regulations* to *Information Disclosure Law*, to accelerate the legislation

process of disclosure of village-level powers.

3.1.3 Sticking to the grass-roots guidance to strengthen the effectiveness of the rule by law. It is recommended to limit effective local experience, party regulations, and rules and regulations to state laws. Some areas issued regulations such as on *Recommendations for Strengthening the Standardized Management of Village Cadres*, and *Regulations for Management of Illegal Village Cadres*, which are very successful in practice. It is able to fully absorb the reasonable factors and the mature experience as important basis for improving state laws, to constantly improve the completeness and science of the laws and regulations governing village cadres' corruption, making it become an important and powerful anti-corruption tool.

3.2 Strengthening the law enforcement of corruption administration in rural cadres

3.2.1 Adjusting the functional orientation of discipline inspection and supervision organs. The county (district), township (town) disciplinary inspection and supervision organs should focus on managing party discipline in the rural areas, allowing discipline inspection forces to go deep into the rural areas, and organize, supervise and coordinate the supervision of rural cadres. Grassroots disciplinary inspection and supervision organs should regard investigation and handling of cases as the focus of disciplinary inspection, strengthen the investigation and punishment of corruption cases in rural areas, enhance the deterrent power, enable rural corruption cases to enter statutory working procedures more directly, and also can include grassroots anti-corruption practices, measures, etc. to the legal track.

3.2.2 Strengthening the independent judicial status of the judicial department at the grass-roots level. It is recommended to scientifically define the jurisdictional scope and the corruption behavior of the village cadres, and increase provisions for the identification and punishment of violations of laws and other violation behaviors of village cadres. When conditions permit, it is feasible to explore non-local trial system of village cadres, and break the local umbrella and human relation network, to prevent external forces from interfering with the investigation of cases^[2]. Besides, it is recommended to implement the responsibility system for handling cases involving corruption of rural cadres, resolutely prevent the occurrence of not strict in law enforcement and failure in investigation of cases.

3.3 Strengthening the supervision and guidance of higher-level party committee governments over the village-level work

3.3.1 Strengthening the supervision and guidance of democratic election. In the new term election of village committees, townships (towns) should focus on legal election to strengthen the guidance of democratic elections for villagers, explore the patrol inspection system of county-level leaders and resolutely investigate violations of laws and disciplines such as bribery election, tyrant election, and grabbing of ballot boxes.

- [2] YAO P. Study on the complex system evaluation and adjustment of the sustainable development of coal cities[D]. Harbin: Harbin Engineering University, 2008. (in Chinese).
- [3] MARTINEZ-FERNANDEZ C, WU C, SCHATZ LK, *et al.* The shrinking mining city: urban dynamics and contested territory [J]. *International Journal of Urban and Regional Research*, 2012, 36(2): 245 – 260.
- [4] TANG H. Ecological restoration and landscapes reconstruction research of the coal mining subsidence area with high groundwater in plain area[D]. Nanjing: Nanjing University, 2011. (in Chinese).
- [5] Huaibei City Urban and Rural Planning Bureau. Overall urban planning of Huaibei City (2016 – 2040) (draft) [EB/OL]. <http://ghj.huaibei.gov.cn/content/detail/59b261f8a6039c16455dd9f1.html>, 2017-09-08. (in Chinese).
- [6] BELL FG, GENSKE DD. Restoration of derelict mining sites and mineral workings [J]. *Bulletin of Engineering Geology and the Environment*, 2000, 59(3): 173 – 185.
- [7] Huaibei City Land Bureau. Overall land use planning of Huaibei City (2006 – 2020) [EB/OL]. <http://gt.huaibei.gov.cn/content/detail/5a5727091669f054ae6d963d.html>, 2018-02-09. (in Chinese).
- [8] CHU JL. Study on the quantitative analysis of urban spatial form [M]. Nanjing: Southeast University Press, 2007. (in Chinese).
- [9] SONG Y, WANG SJ. Mining city spatial pattern, process and mechanism [M]. Beijing: Science Press, 2011. (in Chinese).
- [10] NIU X. Study on the spatial structure of Nanning megacities under the background of rapid urbanization [D]. Beijing: Tsinghua University, 2005. (in Chinese).
- [11] GOROKHOVICH Y, VOROS A, REID M, *et al.* Prioritizing abandoned coal mine reclamation projects within the contiguous United States using geographic information system extrapolation [J]. *Environmental Management*, 2003, 32(4): 527 – 534.

(From page 41)

3.3.2 Implementing democratic decision-making mechanism at the village-level. It is recommended to energetically promote the system of "four discussions, two disclosures, and one supervision". Towns should strictly supervise and inspect the disclosure of village affairs. For villages without complete and promote disclosure of village affairs and financial affairs of two committees, it is required to investigate the accountability of township discipline inspection and supervision department. Village cadres involved in illegal action should be investigated and prosecuted by the discipline inspection and supervision department.

3.3.3 Implementing village-level democratic management system. It is recommended to establish and improve the "village financial management" model, and make separate management of accounts, money, and materials for villages and townships. Specifically, the accountant should management the account, the cashier should management the money, and village party secretary, village committee director, village affairs supervision committee to take charge of the approval and signature system, to prevent the approval from a single person. Besides, it is recommended to strengthen the financial auditing, investigate and prosecute those illegal village cadres embezzling collective assets and funds, impose punishment of party discipline or deliver to disciplinary inspection and supervision organ for handling, or deliver to judicial organ to investigate and affix legal liabilities in compliance with laws.

3.3.4 Putting the democratic supervision into place. At present, many members of village affairs supervision committees and village cadres have a variety of interest relations. In view of this situation, it is required to establish the village affairs supervision committee or establish a third-party supervision organization in accordance with the principles of lawfulness, independence, and balance. Under the guidance of the higher party committee and government, it is recommended to implement a regular and long-

term supervision of key works of village affairs, and take direct responsibility to the higher party committee, to prevent centralization of powers of village cadres.

3.4 Vigorously cultivating the rural modern culture for rule by law

3.4.1 Strengthening rural cultural construction for rule by law.

It is recommended to incorporate the clean government construction of village cadres into grass-roots cultural construction, launch the event of putting clean government culture to rural areas, bring into full play the infiltration function of culture of the rule by law, raise the rule-by-law concept of the masses, and create the rule-by-law environment in the whole society.

3.4.2 Making innovation in the platform and carrier of the public supervision. It is required to accelerate the progress of rural anti-corruption work, and take advantage of various new media to improve the effect of anti-corruption. Besides, it is recommended to explore the scientific and technological supervision platform for rural collective funds, assets and resources, to realize network, sunshine and information based supervision of rural collective funds, assets and resources. Through the public supervision, it is expected to stimulate the enthusiasm of the villages for participating in the anti-corruption work, and accordingly form the powerful force for fighting the corruption of rural cadres^[3].

References

- [1] MENG ZY. Thinking about the primary party organization is the main position of anti-corruption and building a clean government [J]. *Extensive Selection of Party History (Theory)*, 2015, 11(7): 44. (in Chinese).
- [2] TANG X. The establishment of the grassroots anti-corruption and anti-corruption mechanism under the new situation [J]. *Theoretic Observation*, 2015, 14(6): 40 – 41. (in Chinese).
- [3] HUANG SD. On fighting corruption and building a clean government from the grassroots [J]. *Oriental Enterprise Culture*, 2015, 12(5): 156. (in Chinese).