

Study on the Way and Supervision System of China's Constitution Implementation

Mengyang Gu

Law School, Anhui University of Finance and Economics, Anhui 233030, China.

Abstract

Constitution is the fundamental law of our country. The effective implementation of constitution is of great significance to protect the basic rights of citizens. Based on this, we first analyze the relevant concepts and connotations of the implementation of the Constitution, find out the problems existing in the process of the current implementation of the Constitution, increase the study of the present situation of the Constitution, and clarify the way of the implementation of the Constitution. In light of China's national conditions and the current background of the rule of law, the relevant state organs should step up the examination of constitutional legality and establish a complete system of constitutional review. It is also urgent to strengthen the punishment of unconstitutionality, especially the supervision and punishment of infringement of citizens' basic political rights.

Keywords

Constitutional Implementation; Constitutional Oversight; Constitutional Review.

1. Introduction

The life of the Constitution lies in its implementation, The authority of the Constitution also lies in its implementation ", It can be seen that the implementation of the Constitution is an important part of whether the Constitution can play an effective role. We have also made many efforts to ensure the effective implementation of the Constitution, We've passed four constitutions since we were founded, The 1954, 1975, 1978 and 1982 Constitutions, The Constitution was amended in March 2018, China's frequent formulation and revision of the Constitution is also aimed at better promoting the implementation of the Constitution. In the process, The constitution as the fundamental law follows the tide of the times, Hold high the banner of socialism, It plays an active role in confirming the achievements of social reform, promoting socialist modernization, promoting the process of political democratization in our country, and building a harmonious socialist society.[1] but the effective implementation of the Constitution has a long way to go, Not a simple process, With the rapid development of social economy and the change of social complexity, And the lack of awareness of the constitution, Research on the system is not in place, So, It is very important to deeply explore the path of constitution implementation.

2. Concepts relating to the implementation of the Constitution

2.1 Basic connotation of the implementation of the Constitution

We all know that the implementation of the law is to achieve the purpose of the law, reflect the legal value and concept and play a positive role in the implementation of the law, and the implementation of the constitution is also a kind of law. The so-called implementation of the Constitution refers to the direct implementation of the Constitution, the implementation of the contents of the Constitution, the connection between the provisions of the Constitution and specific constitutional cases, and the direct effect on specific constitutional China's legal background and China's basic national conditions[2], at the same time according to China's constitutional interpretation procedures and the improvement of the constitutional supervision mechanism to implement the constitutional interpretation procedures, promote constitutional review work, strengthen the filing review system and capacity-building, legal revocation and correction of unconstitutional and illegal normative documents, but the entire implementation process to fully reflect "Chinese characteristics, practical

characteristics, characteristics of the times ". Finally, in the whole process of the implementation of the Constitution plays which plays an important role and occupies the core position is constitutional supervision. The right to be unrestricted and supervised inevitably leads to abuse and corruption. All state organs should exercise their rights and perform their duties strictly in accordance with the statutory powers and requirements specified in the Constitution. They must not have the privilege of surpassing the Constitution, and must not use any pretext to replace the law with power. In short, the construction of the socialist building of the rule of law in China can not be separated from the effective implementation of the Constitution. We must strengthen the supervision of the Constitution and promote the development of the cause of the Party and the state by conscientiously respecting and effectively implementing the Constitution. And then fundamentally protect the well-being of the people.

2.2 Content of the implementation of the Constitution

On the one hand, the content of the implementation of the Constitution includes two aspects: the application of the Constitution and the observance of the Constitution, which is a dynamic and concrete process; on the other hand, the content of the Constitution covers all aspects of the life of the state, society and citizens, and its coverage is extensive. The main purpose of the implementation of the Constitution is to guarantee the basic rights of citizens, including their political rights and freedoms, their personal freedom and their socio-economic, cultural and educational rights. The establishment of these fundamental rights of citizens is also the basis and basis of the general legal rights of citizens. Citizens can not only fulfill their obligations without enjoying their rights, nor can they only enjoy their rights without fulfilling their obligations. In other words, the realization of fundamental rights can be promoted on the basis of fulfilling the obligations of the state to protect. In other words, whether the basic rights of citizens can be effectively guaranteed depends on whether the state has fulfilled the obligations of the state accurately and properly, which requires the state to make effective changes and interpretations of the constitution on a regular basis, as well as the observance of the constitution and the effective supervision of the constitution to fulfill its obligations, Thus, the basic rights of citizens are guaranteed to the greatest extent of substance, rather than being superficial and mere formality; the way that the constitutional guarantee is implemented through a variety of channels, in our country mainly refers to the combination of prior and post-review, the lack of any of them, the constitutional guarantee will be flawed, may lead to the abuse of the constitution, can not be guaranteed, can not play its due value well and effectively, thus deviating from the spirit of the Constitution, can not reflect the will of the people, can not be supported by the people; From the form of the implementation of the Constitution is multi-level, because the content of the implementation of the Constitution covers all aspects of civil life, including political, economic, cultural and other social life, the implementation of the Constitution must go through the complex laws, regulations, system transformation to achieve. From its whole content, the concrete implementation of the Constitution is the key, the supervision of the Constitution is the focus, we must not ignore and omit the effective supervision of the Constitution on the basis of promoting the effective implementation of the Constitution.

2.3 Issues to be addressed in the implementation of the Constitution

With the continuous development of the rule of law society and the continuous improvement of the constitution, the implementation of the constitution is also various and complicated, because of this, there are also many problems to be solved in the process of implementing the constitution, mainly in the following aspects: first, the concept of rule of law is gradually changing from governing the country according to law to governing the country according to the constitution, which is a great progress in the development of our country's legal system, but how to realize the rule of law according to the constitution still needs our theoretical discussion and practical practice; Second, the leadership of the Party is an important guarantee for us to govern the country according to law and constitution, so it is particularly necessary to understand the relationship between the leadership of the Party and the implementation of the Constitution. To realize the rule of law must be inseparable from the

effective implementation of the Constitution, and the effective implementation of the Constitution depends to a large extent on the leadership of the Communist Party of China. This can promote the better implementation of the Constitution and protect the continuous development of the rule of law in China. Third, the implementation of the Constitution must be supported by theory, which is also the problem we want to solve. We should hold high the banner of socialism with Chinese characteristics in combination with the national conditions of our country and the actual situation of the development of our legal system.[3] Fourth, it is necessary to make a timely summary of the problems that arise in the course of the implementation of the Constitution, to supervise the Constitution, to ensure its effectiveness, and to truly implement it, all of which are the problems facing its implementation. Only by solving these problems can we improve the scientific, efficient and sustainable implementation of the constitution.

3. The way to implement our Constitution

3.1 Strengthening constitutional awareness

At present, the constitutional consciousness of our country is relatively weak, many people do not even understand the constitution, do not understand the way of constitutional implementation, the relevant theoretical research is not in place, but the victory is developing rapidly. We raise the constitutional awareness of the whole people, we must first strengthen the authority of the Constitution, increase its publicity, make the people feel that the Constitution serves their vital interests in real daily life, protect their most basic rights and make the people realize that the implementation of the Constitution is closely related to their fundamental interests; secondly, under the banner of socialism with Chinese characteristics and in the light of the development of the specific legal system, relevant experts and legislative and judicial staff should intensify their research on constitutional theory, promote its implementation, explain the importance and scientific nature of its implementation, and raise the people's constitutional awareness; Finally, leading cadres should give full play to the example of strengthening the concept of the legal system. There is no doubt that the implementation of the Constitution of our country is mainly carried out through leading cadres. Set up a correct scientific constitutional concept, the people can enhance constitutional awareness.

3.2 Strengthening constitutional interpretation

The effective implementation of the Constitution can not open the interpretation of the Constitution, the interpretation of the Constitution can better help the implementation of the Constitution with the times. If there is no scientific and correct constitution implementation, the effect of constitution implementation will not be very good, there will be unnecessary mistakes, and the constitutional value can not be fully reflected. Through the interpretation of the Constitution, it can not only ensure that the Constitution can avoid unnecessary mistakes in the process of implementation, better reflect the value of the Constitution, and protect the fundamental interests of the people. At the same time can also maximize the authority of the Constitution and constitutional stability. In order to strengthen the interpretation of the Constitution, we must first combine the interpretation of the Constitution with the revision of the Constitution, so that we can keep pace with the times, solve new problems in society, combine the rigid means of the revision of the Constitution with the flexible means of the revision of the Constitution, and complement each other; secondly, the interpretation of the Constitution should be combined with the actual political, economic and cultural background, and the provisions of the Constitution should be combined with the implementation of the case, so as to ensure the scientific interpretation of the Constitution to the maximum extent possible; Finally, the constitutional interpretation should proceed from the basic content of the Constitution, not deviate from the basic content of the Constitution, and should be combined with the needs of the development of the times and the development of the legal system. On this basis, relevant interpretations should be carried out to promote the [4] of the implementation of the Constitution.

3.3 Political security

Political guarantee is one of the ways to guarantee the Constitution, which means that the ruling party takes the lead in abiding by and implementing the Constitution, that is, the Party leads the people to abide by the Constitution, the Party leads the people to amend the Constitution, and the Communist Party of China plays an irreplaceable role in the constitutional guarantee. It is necessary to strengthen the Party's leadership over the overall rule of law, improve its ability and level of ruling according to law, and provide direction guidance and political guarantee for the overall rule of law. First of all, it is necessary to strengthen the party's leadership, reform the party's leadership style, perfect the party's working mechanism, and organically combine the party's leadership with the people's will and the party's ruling according to law. It is also the key to the effective implementation of the Constitution. Party organizations and leading cadres at all levels should deeply realize that safeguarding the authority of constitutional law is to safeguard the authority of the common will of the party and the people, and safeguarding the dignity of constitutional law is to safeguard the dignity of the common will of the party and the people. Secondly, the scope of work of political parties is clearly stipulated in the content of the Constitution, so as to provide important guidance for the leadership of the Party scientifically and effectively, clarify the responsibilities of the Party's work, and better safeguard the implementation of the Constitution. Finally, we should strengthen the supervision of the Constitution by the National people's Congress and its standing Committee, and strictly supervise the Constitution in order to ensure that the Constitution keeps pace with the times, safeguard the implementation of the Constitution, and guarantee the Constitution dynamically. With the development of the times, it is necessary to supervise the implementation of the Constitution by the people's Congress, because it is not only the result of drawing lessons from the advanced system of foreign countries, but also the demand of our country's current national conditions, political system and balance of rights.

4. Constitutional oversight system of the National People's Congress

4.1 Unconstitutional Review of Relevant Contents and Documents

The main body of constitutional supervision in China is the National People's Congress and its Standing Committee. The National People's Congress has the power to revoke the relevant unconstitutional laws, decisions, orders and regulations in accordance with legal procedures, to realize supervision of the Constitution, and to make detailed provisions on normative documents such as legal documents that should be supervised, including those made by legislative, administrative and judicial organs, all of which have the possibility of unconstitutionality and should be included in the scope of supervision. In addition, non-legally binding documents, such as the legal provisions formulated by party and government organs, should also be included in the scope of constitutional supervision, as they also have an important impact on the rights of the state, society and citizens within a certain range. Strict supervision of these contents and documents can promote the effective implementation of the Constitution. Finally, we should recognize the difference between the constitutional supervision of political parties and social organizations and the supervision of state organs, so as to promote the better operation of the constitutional supervision system of the National people's Congress. Through the unconstitutional examination of the contents of the relevant documents, the National people's Congress can create a good environment for the implementation of the Constitution, thus promoting the implementation and development of the Constitution on this basis.

4.2 Supervision of State organs

The state organs referred to here are mainly the State Council and various departments of local governments. The oversight of the highest administrative bodies includes the performance of the functions of the Government, the question of whether they exceed their powers and the conflicts between the various branches. First, the NPC and its Standing Committee should urge the improvement of the legislative system, strengthen the improvement of special legislation, make detailed provisions on the principles, procedures, contents and means of the Constitution, and provide legal protection for the effective operation of the implementation of the Constitution. Second, the

NPC and its Standing Committee should strengthen the supervision of the implementation of the Constitution. First, in terms of its supervision methods, such supervision methods can be varied, including not only the highest administrative organs but also local administrative organs. Secondly, it is necessary to strengthen the National Congress and its standing Committee to urge the improvement of the legislative system, improve the quality of deputies to the people's Congress, and close the relationship between deputies and legislation, so as to urge the people's Congress to legislate in a targeted manner. Finally, the NPC and its standing committee should do a good job in supervising other state organs, and should carry out systematic, standardized, scientific and orderly supervision from the inside out, from the top to the bottom, so as to maximize the characteristics and advantages of such supervision. Legislation, law enforcement and judicial organs at all levels and their staff should consciously accept supervision, know awe, fear, observe the bottom line, and be accustomed to working and living in an environment of supervision and restraint. We must resolutely break down all kinds of hidden rules, never allow extra-legal grace, never allow relations cases, human relations cases, money cases. Resolutely oppose and punish rough law enforcement and barbaric law enforcement. Zero tolerance for corruption in the field of law enforcement and justice, resolutely eliminate black sheep.

4.3 Increase unconstitutional liability

The punishment and accountability of the relevant provisions of the illegal Constitution is an important guarantee to ensure the effective implementation of the Constitution and an important link to protect the basic rights of citizens. However, at present, our country has enough responsibility for unconstitutional review, only some prohibition provisions, and there is no specific sanction method. In the process of handling cases, the unconstitutional legal documents are only "amended" and "withdrawn", and the serious unconstitutional persons are only dismissed. The punishment is very slight, which can not play an effective constitutional supervision effect. [5] we should make improvements in the following areas: first, we should improve the system of review of the unconstitutionality of the people's congresses, conduct special review of the constitutionality of the people's congresses every year, and provide an important guarantee for the exercise of the functions of the people's congresses; secondly, we should recognize the equality of the status of unconstitutional subjects, treat them equally, and refrain from wearing "colored glasses", whether the staff of the highest administrative organs or local administrative organs violate the Constitution and receive the same punishment and sanctions; [6] Finally, unconstitutional organs or staff members should not be punished by criticism or dismissal, but should establish a complete review mechanism of unconstitutionality, clarify the responsibility of unconstitutionality, and combine the serious consequences, if necessary, carry out substantive legal review, safeguard the authority of the Constitution and promote the effective implementation of the Constitution.

4.4 Monitoring and sanctioning violations of civil and fundamental political rights

The basic political rights of citizens are the political reflection of citizens' economic requirements, an important part of civil rights, and the basis for citizens to enjoy other rights. The extent to which citizens enjoy basic political rights and the extent to which they are realized are often indicators of the degree of democratization of a country. The necessary supervision and sanctions against citizens' basic political rights are also the key issues we should focus on. Especially during this year's new crown epidemic, the Party and the state should safeguard the basic political rights of citizens, because after entering the emergency of epidemic prevention and control, the basic rights of citizens, including the basic political rights of citizens, are easily illegally restricted and infringed, so it is particularly important to supervise and sanction the violation of basic political rights of citizens. The Constitution gives the people's congresses the right to supervise and sanction violations of the fundamental political rights of citizens, and in order to further promote the supervision of the people's congresses on violations of the fundamental political rights of citizens, the people's congresses need to play their role in the following aspects. First, it is necessary to strengthen and improve the system of review of unconstitutional laws of the people's congresses and provide the necessary preconditions and bases

for the exercise of the supervisory functions of the people's congresses and the efficient examination of unconstitutional acts; Secondly, we should examine and supervise the specific acts made by the subject of the implementation of the Constitution, punish the violations of the basic political rights of citizens, restrain the subject and act, combine the implementation of the Constitution with the supervision of the Constitution so as to improve the efficiency of the implementation of the Constitution. Starting from the above aspects, taking the lead by the people's Congress and the effective cooperation of other state organs with power can better supervise and sanction violations of citizens' basic political rights.

5. Conclusions

From the point of view of reality, we analyze the connotation of the Constitution, the relevant contents of the Constitution and the problems existing in the process of the Constitution, at the same time, make clear the way of the implementation of the Constitution, follow the development of the times, and improve the effectiveness of the implementation of the Constitution. Increasing the study of the constitutional supervision system can not only better safeguard the dignity of the constitution, enhance people's constitutional consciousness, promote the development of our constitution and the progress of our legal system, but also play a positive role in safeguarding the basic rights of citizens and promoting the harmonious, stable and rapid development of society.

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