

On the Administrative Emergency Power of Grassroots Government in the Prevention and Control of Public Health Emergencies

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Abstract: Since 2020, the prevention and control of the novel coronavirus disease 2019 (COVID-19) has become the most important task. China's strong administrative system has effectively controlled the spread of the epidemic, and at the same time, it has provided valuable experience for global epidemic prevention and control. The exercise of administrative emergency power plays a guarantee role in prevention and control. Its key link is the "mass prevention and mass governance" mechanism, where the connection point is the exercise of administrative power of grassroots governments. This paper aims to provide suggestions and reference for the construction of the rule of law of the administrative emergency capacity of grassroots governments by combing the definition, characteristics and necessity of administrative emergency power in public health emergencies and analyzing the administrative emergency power of grassroots governments.

1. Questions

At the beginning of the New Year of 2020, the COVID-19 epidemic raged around the world and spread in China. COVID-19 is a nationwide public health event. A core issue in epidemic prevention and control is the legal regulation of the government's exercise of public power and the protection of citizens' rights. In particular, township governments and sub district offices, as grassroots administrative organs, often face a relatively poor legal environment, a relatively weak administrative authority, and their own administrative emergency power, which cannot be determined, and their emergency administrative measures are also questioned in law, but they must implement the administrative orders and decisions of the superior government, often resulting in inability to follow and do nothing. The author believes that there is a lag in legislation of the administrative emergency power of the grass-roots government. This paper will sort out this problem and put forward corresponding suggestions.

2. Classification and Classification of Public Emergencies and Particularity of Public Health Events

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emergencies

(1) Classification and grading of public emergencies

The term "Public emergency" includes three parts: "Sudden", "Public" and "Event". Its characteristics can also be summarized by the above three words, that is, public emergency has the characteristics of sudden emergence, social harm and publicity. First, the suddenness of the event. Sudden refers to the sudden outbreak, beyond people's usual expectation, this feature is relative to the normal social life, that is, under the normal order of production and life, sudden and sudden events, such as earthquake, fire, unrest, plague, etc. The occurrence and development of any event is the result of both qualitative and quantitative changes, that is, accidental factors and inevitable factors jointly promote the occurrence of the event, such as the outbreak of an epidemic, which appears to be the instantaneous spread of infectious virus, but the underlying reason is the loopholes in the public health system. Correctly identifying the accidental and inevitable factors of the event is conducive to effective prevention, control and response to the event. The emergency itself also determines the necessity of taking emergency administrative measures. According to the emergency degree, emergency measures can be differentiated and adjusted accordingly. Second, publicity. Publicity refers to the breadth of events. Compared with individual events, emergencies involve a wide range of people and become social events, threatening social public security and public interests. Because individual interests and public interests are intertwined, and individual interests constitute public interests, the boundary between individual events involving individual interests and public events involving public interests is not very clear. At a certain point, it is an individual event, but with the development of the situation, it may pose a threat to public interests, forming a group event or public event. According to the public scope of events, emergencies can also be divided into regional events and national events. National events are handled by the emergency coordination mechanism of the State Council, and regional events are handled by people's governments at all levels. Third, social harmfulness refers to the threat and damage brought by the incident to the safety of people's lives and property. The reason why it is necessary to establish an emergency mechanism to deal with emergencies is because of the harmfulness and destructiveness of the event, which is directly reflected in the number of personal casualties and economic losses, and the size of the number determines the degree of harm. In addition to direct losses, the harmfulness of some events can also bring about indirect effects such as social psychological trauma, depressed social consumption and people's sense of security, thereby slowing down economic development and even causing recession. Therefore, the comprehensiveness of social hazards determines that the handling of emergencies needs the coordination of multiple departments under the unified administrative power.

According to Article 3 of the Emergency Response Law, public emergencies include "natural disasters, accident disasters, public health events and social security events". Natural disasters, accident disasters and public health events can be divided into four levels, namely, particularly serious, major, major and general, according to the degree of social harm, scope of influence and other factors. In fact, all kinds of emergencies do not exist independently of each other. In the process of "natural disasters", "man-made disasters" are often mixed in. The classification of incidents is conducive to clarifying the horizontal division of functions and powers of administrative organs and delegating responsibilities to people.

(2) The particularity of public health emergencies

According to "byelaw of emergent public health event emergency" stipulated in article 2 definition and category of public health emergencies has a sudden burst, cause harm to public health (Social harmfulness, Publicity) characteristics, the scope of the events related to the social public health outbreaks of infectious diseases, diseases, food poisoning, etc. The author believes that public emergencies involving the health field have the following particularities: First, the discovery

of events lags behind the occurrence of events. Second, the impact of the event is wide and uncontrollable. Third, the development cycle of events is long and repetitive.

3. The Necessity of Exercising the Right of Administrative Emergency in Public Health Emergencies

3.1 The Necessity of Administrative Emergency Power in Sudden Public Events

Due to the particularity of emergencies, the process of handling involves the derogation of the original civil rights, which is also a feature of administrative emergency power. Therefore, in order to protect human rights, the state needs to restrict some basic rights stipulated in the Constitution when unexpected public events occur. This restriction is also a guarantee of the most basic rights of citizens. Therefore, the author believes that the boundary of individual freedom is the freedom of others, and everyone should not affect or destroy the freedom and rights of others when exercising their freedom rights. When the epidemic was raging, in order to prevent the spread of the epidemic, the state took measures to restrict citizens' freedom of travel. If citizens are allowed to travel freely, the exercise of citizens' freedom of travel may lead to threats to their own and other people's personal health rights, which runs into the boundary between public interests and the rights of others. The legitimacy of the restriction of power comes from the protection of rights, especially in emergency situations. "In a normal society, in addition to the abuse of power, the coercive power is limited to legitimate purposes, and the basis of legitimacy lies in its direct or indirect purpose is to protect rights"[1].

3.2 Content of Restrictions on Civil Rights in the Event of Public Emergency

According to the provisions of national constitutions on the content of civil rights, when public emergencies occur, due to the exercise of administrative emergency power, the restrictions on the basic rights of citizens can be mainly divided into the following aspects:

First, Restrictions on citizens' right to personal freedom. When public emergencies occur, restrictions on citizens' free travel can be divided into: Set up checkpoints at entry and exit junctions, implement traffic control, restrict the free movement of residents within a certain area, restrict residents to a certain area or their homes, and enter or search citizens' homes.

Second, Restrictions on the property rights of citizens. It mainly refers to the expropriation or requisition of citizens' property by the state in the event of an emergency, which is generally needed by the state to deal with the emergency, such as food, medicine, clothing, vehicles, etc. During the New Crown epidemic, the state's expropriation of enterprise masks, protective clothing and other epidemic prevention and control materials also reflected the restrictions on property rights.

Third, Restrictions on freedom of expression, freedom of communication and political rights. In case of emergency, the state will generally restrict these rights to prevent rumors from spreading and illegal assembly from disturbing the order. If necessary, measures will be taken to restrict the freedom and secrecy of citizens' correspondence.

3.3 The Characteristics of Administrative Emergency Power

No matter in what state, the life and health of citizens should be considered in the first place. Of the citizen's individual interests constitute the social public interest, in the event of a public health emergency, as the life and health benefits of social and public interests should be placed on the position of the absolute priority to civil part of the rights will be affected by a certain limit, limit the means is the exercise of the administrative emergency power, the author tries to conclude its power

characteristics are as follows:

First, Legitimacy and super legality of administrative emergency power

The legitimacy of administrative emergency power means that the establishment and exercise procedure of power can find the basis for the exercise of power in the current entity legal text of a country within the framework of legal provisions. However, human understanding is limited, and some problems cannot be solved by relying on the existing emergency administrative power. If the existing laws of a state under the rule of law do not provide the necessary relief for emergencies, they should allow the executive to assert broad powers of discretion in response to crises and such powers are not limited to wartime or other emergencies. This power shall be effective insofar as it is exercised in the furtherance of the "public welfare." [2]. Therefore, in order to contain the development of the event, the space for the exercise of administrative power can be expanded, even beyond the provisions of existing laws. Due to the professionalism and complexity of emergency response, in the process of exercising administrative power, administrative organs have to be given certain emergency response power, which should be flexible and more discretionary. The core of power exercise is to follow the principle of proportionality, fairness, reasonableness and other basic principles.

Second, the Inferiority and Priority of Administrative Emergency Power

The inferior nature of administrative emergency power means that it should be a kind of power that is not used in preparation as far as possible, and it should be avoided as far as possible if it is not absolutely necessary, otherwise it will result in wanton violation of civil rights. On the other hand, once the government announces the occurrence of public events through announcement, the administrative emergency power should be exercised prior to other administrative powers. 行政 Reflect in the political priority of emergency power, legislative power and judicial power should be appropriate to let in the administrative emergency power, legislative and judicial of judging the legality of the administrative power should be combined with the objective requirement of the development environment and disposal events, while maintaining its independence at the same time, for emergency disposal and the valid exercise of administrative emergency power to provide solutions.

Third, the centrality and expansion of administrative emergency right

The centralization of administrative emergency power means that, in order to efficiently and uniformly deal with emergency procedures, the administrative emergency power should be exercised in a centralized and unified manner. The emergency response and disposal headquarters should be established to uniformly exercise the functions and powers of various departments related to the response and disposal of administrative organs and uniformly release information to the outside world. The first and second paragraphs of Article 8 of the Emergency Response Law of the People's Republic of China stipulate that the emergency command organization of the State Council and the government at or above the county level uniformly leads the local government and the lower level government in emergency response, which reflects the centralization of administrative emergency power.

4. Provisions on Administrative Emergency Power in Public Health Emergencies in China's Current Laws

After the occurrence of "SARS" in 2003, our country formulated the law of emergency treatment of public health emergencies in the form of administrative regulations, that is, the "Emergency Regulation on Public Health Emergencies" promulgated by The State Council, and preliminarily established the emergency mechanism of public health emergencies. The Regulations on Emergency Response to Public Health Emergencies provided strong legal support for the

establishment of a unified, efficient and authoritative emergency response mechanism for public health emergencies, which not only solved some urgent problems in the prevention and treatment of SARS. The legal system of "unimpeded information, quick response, powerful command and clear responsibility" will also be established for the timely and effective handling of public health emergencies in the future. In 2004 and 2013, the Standing Committee of the National People's Congress revised the Law on the Prevention and Treatment of Infectious Diseases. In 2007, the Standing Committee of the National People's Congress passed the Emergency Response Law, which is the first special law on emergency response in China. It clarifies the subject, procedure, authority and other contents of emergency response in the form of law. Other laws related to the response to public health emergencies also include: Food Safety Law of the People's Republic of China, Animal Quarantine Law of the People's Republic of China, Emergency Regulations on Major Animal Epidemics, Regulations on the Administration of Vaccine Circulation and Vaccination, and administrative rules formulated by the National Health and Family Planning Commission. The administrative emergency powers of administrative organs can be summarized as follows:

4.1 Right to Issue Alarms and Initiate Plans

According to the provisions of Article 43 and Item (1) of Article 44 of the Emergency Response Law, the people's governments at or above the county level have the right to issue incident alerts and launch emergency plans, decide and announce the early warning period, and shall follow the limits of authority and procedures for issuing alerts and launching emergency plans prescribed by the State Council. After the alarm is issued and the plan is launched, it will play the role of early warning and announcement to the local area. The implementation of this power will not impose compulsory influence and measures on the rights and obligations of citizens, so it is not an administrative compulsory power. Whether to declare an emergency and whether to start the emergency procedure is related to the process and rhythm of the entire event disposal. Although the power itself is not directly mandatory to the administrative counterpart, the consequences of its exercise are closely related to the production and life of citizens, and should be exercised carefully.

4.2 The Right to Collect and Release Information

Article 44 (2) and (4) of the Emergency Response Law and Article 38 of the Law on the Prevention and Control of Infectious Diseases stipulate that in the event of an emergency, information shall be collected and released by the official in a unified way, and no other unit or individual shall collect or release emergency information without authorization, otherwise it may lead to illegal or even criminal acts. This power does not belong to the administrative compulsory power of administrative organs, but the exercise of this power will also affect and decide the overall work of emergency response.

4.3 Material Requisition Power

According to Article 12 and Article 45 (2) of the Emergency Response Law and Article 45 of the Law on the Prevention and Treatment of Infectious Diseases, when a public emergency occurs, local governments at or above the county level shall have the right to requisition and mobilize materials and equipment such as houses and means of transportation, and relevant units and individuals shall provide cooperation. This power is derived from the state's right of expropriation of personal property as stipulated in the Constitution of the PRC[3]. This power will have a mandatory impact on citizens' property rights. It belongs to the mandatory power of administrative

organs. The law should further specify the scope, conditions, procedures, compensation clauses, etc. of its exercise.

4.4 Site Closure, Activity Restriction, Traffic Control Right

In accordance with the provisions of Article 45 (7), Article 49 (2) and (4) of the Emergency Response Law, Article 42 of the Law on the Prevention and Treatment of Infectious Diseases, Article 4 of the National Emergency Plan for Public Health Emergencies, and Article 4 of the National Emergency Plan for Serious Animal Epidemics, the people's government at or above the county level has the right to close dangerous places in case of public health emergencies. Delineate warning areas, implement traffic control, close water sources, and restrict crowd gathering activities. Public health emergencies a lot is contagious and divergent, the characteristics of control infection, reduce the crowds gathering is the prevention and control measures must be taken, also, the exercise of power will be mandatory effects on the citizens' rights and obligations, belong to the mandatory power, shall be made on the exercise of power conditions and procedures and other regulations.

4.5 Compulsory Quarantine Right

According to the law on the prevention and control of infectious diseases article 39 and article 41 and article 41 the emergent public health event emergency ordinance, the provisions of article 44, in public health emergencies, to prevent the spread of the epidemic spread, the government and the public security organ at or above the county level shall have the power to patients and suspected patients and close contacts compulsory isolation measures, The Regulations give emergency response headquarters the power to evacuate or isolate people and seal off epidemic-affected areas when necessary. This measure is a kind of medical compulsory measure. The purpose and object of the measure are specific, which will affect the personal freedom of citizens. However, the provisions do not specify the starting procedure, revocation procedure and relief procedure of isolation measures, which should be stipulated in legislation.

4.6 Regional Blockade Right

According to Article 43 of the Law of the People's Republic of China on the Prevention and Control of Infectious Diseases, when Class A and Class B infectious diseases break out and become prevalent, the government can declare the administrative area under its jurisdiction as an epidemic area and implement blockade measures in the epidemic area. This measure is the same type of measure as the aforementioned measures of restriction and isolation of activity areas, which is a reinforcement of the above measures. When the closure of individual places, traffic control and isolation of virus carriers are not enough to deal with epidemic infectious diseases, The relevant government may adopt local regional blockade measures. For example, after the outbreak of COVID-19, Wuhan, Shijiazhuang and other places have taken lockdown measures. This measure is a highly restrictive administrative measure that has a wide impact and should not be adopted unless it is a last resort. The conditions and procedures for the exercise of this mandatory measure should be stipulated in law.

4.7 Summary

According to the regulations of current laws and the discussion of other scholars, the author believes that in the emergencies of public health, the administrative emergency power of

administrative organ should include: (1) the right to declare the occurrence of the event: namely, the administrative organ has the right to declare the occurrence of the event and determine the nature of the event; (2) The right to collect and release information: the authority has the right to collect and release information related to public emergencies;(3) Material requisition right: the administrative organ has the right to collect and transfer materials related to emergency disposal; (4) The right to restrict places and activities: that is, administrative organs have the right to close public places and restrict the area and scope of activities; (5) Traffic control right and regional blockade right: that is, the administrative organ has the right to block the regional access, implement traffic control and restrict the flow of people; (6) Compulsory isolation right: that is, the administrative organ has the right to take compulsory isolation measures against virus carriers and close contacts to cut off the source of infection.

It can also be seen from the clear provisions of the above laws that the administrative disposal power of public emergencies is not vested in the people's governments at or above the county level, township governments and sub district offices. However, the township government, sub-district offices in the handling of public emergencies play the role of a new force, the author will be detailed below.

5. The Role of Grass roots Government in Public Emergencies and the Deficiency of Current Legislation

The grass-roots government should refer to the first-level government that constitutes the most grass-roots political power in China, and its management objects are directly oriented to the people, rather than reflecting its management function through the leadership and command of the lower-level government. In this sense, the grass-roots government should refer to the township people's government. The township government is directly facing the people, and there is no government at any level below it.

In response to public health emergencies, the grassroots government is responsible for the indispensable "mass prevention and control". The grassroots government organizes the villagers' committees and residents' committees to take physical isolation measures, including blocking the streets in the area under its jurisdiction, setting up cards at intersections and village entrances, and carrying out mandatory inspection on passers-by. On the one hand, in a community or an administrative village, residents and villagers can take autonomous actions to prevent and control. On the other hand, the vacuum zone involving the management of self-governance measures within residents and villagers, the matters that need to be coordinated and solved between communities and villages, and the management of public roads and public places within the scope of towns and townships all need to be included in the administrative power management category of the township government. That is, in the failure and absence of grassroots self-government and other public areas, township governments need to play the role of administrative management. The author believes that this is the junction between public health emergencies and the exercise of administrative power by township governments.

First, the primary government as the leading body in dealing with public health events. China's political system is a power operation system in which the executive power is at the core. In the handling of emergencies, the government is in the leading position. The government is responsible for formulating emergency response plans and formulating and implementing emergency measures, which ensures administrative efficiency and effect. The basic level government is at the end of the administrative system, it is necessary to implement the emergency measures formulated by the higher level government in the administrative region. The basic level government has no right to change the orders and decisions of the higher level government, but the specific characteristics of

the administrative region, need to formulate the corresponding work implementation plan. Its implementation plan inevitably has the administrative color. For example, the measures for closing villages and communities formulated by the government at the time of the outbreak of the epidemic involve how each village and community implements them. A detailed plan needs to be formulated by grass-roots township, sub district and mass self-government organizations. The plan should be filed and supervised by the grass-roots government.

Second, basic level government under the circumstance of failure of basic level autonomous organization. When a mass self-government behavior cannot be resolved within communities, the village, when an autonomous mass organizations at the grass-roots level in failure or collectives, paralysis, weakness and degree of emergency incident requires immediate to disposal of the incident, the villages and towns, streets, shall be brought into play the administrative function, immediate control of the failure situation, in this case, It is also necessary to exercise the administrative power at the grassroots level.

Third, grass-roots government in the absence of public domain management. The government itself undertakes the functions of social management and public services, providing products to the society, such as schools, hospitals and public cultural facilities. When a public health event occurs, especially an epidemic, public areas are the key areas for prevention and control. Schools are closed, shopping malls are closed, and restaurants are closed. The control of these areas requires the government to take certain administrative coercive measures, otherwise, individual consciousness and social supervision alone will not achieve the control effect. It is the primary and most important task for administrative organs to deal with sudden public crises, minimize the harm of the crisis and control the expansion of the crisis. Grass roots governments are often located in the first scene of the event. The abruptness, urgency and asymmetry of information of the crisis determine that grass roots governments should be the first subject to deal with the crisis. The government at the first scene immediately made a judgment, and timely and effective emergency response measures were crucial to the expansion of the crisis. The outbreak of the epidemic highlighted the importance of the grass-roots government to deal with it at the first time. At the same time, it also requires that the grass-roots government be given the administrative emergency disposal right, and constantly accumulate emergency disposal experience in practice to improve the level of early warning and disposal.

Based on the above points, in the prevention and control of public health emergencies, the exercise of administrative power of the grass-roots government is indispensable, and it is a key link in the group prevention and control, playing a central role. But, through to our country current emergency disposal of legislation, our country's public emergency contingency disposal is given priority to with "" the principle of territoriality, however, involves the administrative emergency disposition on the distribution of power of the central and local governments, or mainly by the central government to exercise rights, local government emergency disposition belongs to the government at or above the county level, The administrative emergency power of the grass-roots government belongs to the vacuum zone in law.

6. Suggestions on the Standardization and Regulation of the Administrative Emergency Power of the Grass-Roots Government in Public Health Emergencies

6.1 Basic Principles of the Establishment of Administrative Emergency Power of Grassroots Government

(1) Principle of statutory authority

On the establishment of the administrative emergency power of the grass-roots government, the principle of statutory authority is first embodied in the principle of legal reservation. Administrative

expropriation and administrative coercive acts involving the restriction of citizens' basic personal freedom and property rights should be stipulated by the National People's Congress or the Standing Committee in the form of law to grant the power to the grass-roots government. Otherwise, the grass-roots government will have no basis to exercise its power. Rights legal principles are embodied in the legal status of sex principle, namely lower administrative regulations on basic government administrative emergency power to make specific provisions, should be subject to the host law the provisions of the grass-roots government to exercise the right of administrative emergency need to formulate normative documents, decisions and orders, to obey the superior of the provisions of the laws, regulations and rules, this is the status of legislative requirements.

(2) Proportionality principle

The principle of proportionality is the basic principle that administrative organs should follow when exercising their discretionary power. Article 11 of China's Emergency Response Law stipulates that "the measures taken by relevant people's governments and their departments to respond to an emergency should be suitable to the nature, degree and scope of the social harm that an emergency may cause; Where a variety of measures are available, the measures that are conducive to protecting the rights and interests of citizens, legal persons and other organizations to the greatest extent shall be chosen.[4]" As a grass-roots government, on the one hand, it has deficiencies in professional knowledge, personnel reserves and emergency experience, which limits the space for its discretion. On the other hand, it is often at the forefront and the first scene of public emergencies, so it is necessary to give it certain authority to take emergency measures for the event. Therefore, the author believes that the grass-roots government should have the right to take emergency measures when it finds an emergency, but the implementation of the measures should conform to the principle of proportionality. In remote areas, when the administrative power of the government at or above the county level cannot reach the site in a short time, the township government should have a relatively greater authority to deal with it.

(3) Principles of human rights protection

In public health emergencies, due to the need to deal with emergencies, the basic rights of citizens have to be limited, resulting in citizens' derogation obligations. Therefore, the author believes that the principle of human rights protection in public health emergencies reflects the balance of rights of different legal values and the limits of derogation of citizens' rights. The ultimate goal of the administrative emergency right is to protect the people's life and property safety from damage to the greatest extent. In order to achieve this goal, when the restriction of individual subject's rights has to be implemented, the goal should also be to realize the protection of human rights, and the implementation of the minimum infringement.

6.2 Content and Procedure Control of Administrative Emergency Right of Grass roots Government

At present, Chinese laws do not provide for the administrative emergency response right of the grassroots government. From the perspective of the COVID-19 response, the role of the grassroots government is mainly reflected in the mass prevention and control, organizing and mobilizing grass-roots autonomous organizations, and implementing closed measures on the communities and villages where they are located. In addition, the author believes that the grass-roots government should be given certain administrative emergency disposal power, and the specific contents can be as follows:

(1) Temporary administrative isolation measures

In epidemic prevention and control, the subject of isolation includes medical institutions, health administrative departments, governments, units, public security organs, etc. It should be made clear

that the adoption of isolation measures and compulsory isolation are not the same concept, and compulsory measures to restrict personal freedom can only be implemented by the public security organs. In the case that the administrative counterpart does not obey the isolation measures, compulsory isolation measures should be adopted by the public security organs.

Rural areas are a weak link in epidemic prevention and control, with backward sanitary conditions and prevention and control awareness. Once cases are found, quarantine measures should be taken immediately. If a case or suspected case is found in the grass-roots government area, it should be allowed to take temporary surveillance and quarantine measures, and at the same time inform the medical institution and report immediately. While making this right clear in legislation, specific provisions should be made on the conditions, procedures, time limits, etc. under which grass-roots governments have the right to take isolation measures in specific guidelines for prevention and control of public health emergencies, and more specific isolation implementation norms should be established to provide basis and guidance for the implementation of grass-roots governments.

(2) Closed control right of villages and communities

The most effective measure for the control of epidemic infectious diseases is to limit the flow of personnel, and the registration and reporting system shall be adopted for those who need to go out. In the prevention and control of the new epidemic, the township government and the sub district office took closed management measures for the communities and villages where cases were found, and the system of restricting access and registering access for the villages and communities where no cases were found, which reflected the exercise of administrative emergency power. This kind of measure provides experience for handling unexpected public events in the future, but it will also have a certain impact on citizens' freedom of travel, which should be stipulated in legislation.

(3) Material collection call right

Materials are the basic condition for dealing with public health emergencies. Requisition of materials can effectively make up for the shortage of government materials in emergencies, but it also has a direct impact on the property rights of the relative parties. Under normal conditions, administrative requisition has the characteristics of compulsory, injurious, public welfare, legal and compensatory [5]. Grass roots governments are at the front line of prevention and control, and they have an urgent and large demand for materials. Grass roots governments should be given the right to requisition materials from units and individuals within their jurisdiction.

6.3 The Procedure of Exercising Administrative Emergency Right of Grass roots Government

The procedure of administrative emergency power is different from the general administrative procedure. It has the characteristics of large space for discretion, flexible disposal, simple and fast procedures, ex post facto and immediate. It should adhere to the principle of giving grass-roots governments greater executive autonomy on the basis of the unified leadership of the government at or above the county level in handling incidents. Taking the measures adopted by grassroots governments in public health emergencies that have the greatest impact on citizens' rights and obligations and are most frequently used as the closed control measures for villages and communities as an example, the author believes that the following procedures should be followed in the implementation of such measures:

(1) Initiation of measures

The core of measure initiation lies in the approval and confirmation power of measures, namely, who has the right to decide the closed management of villages and communities. The author believes that under the current system in our country, the grassroots government is still mainly used as the executive organ of the county or above government order, decision, Its jurisdiction,

institutional setting, authority allocation, staffing and so on are still not enough to take a measure that does not constitute a great impact on the personal freedom of the majority of people to make decisions, otherwise, it will also lead to the abuse of administrative power, causing undue impact on the personal freedom of citizens. If it is necessary to take closure measures, the grassroots government can report the reason, time limit, scope, necessity, etc. of the measures to the people's government at a higher level, and the higher level government will decide whether to take such measures. The higher level government can also take the initiative to ask the grassroots government to implement closure measures after making a decision. In the decision of the superior government, provisions shall be made on the scope, subject and time limit of the implementation of the measures.

(2) Implementation of measures

The closure measures of villages and communities mainly involve the setting of entrances and exits, access time, access inspection and registration, certificate making, emergency duty and other matters. After the approval of the government at or above the county level for the closure measures, the specific implementation and implementation of the power should be in the grassroots government. In the process of implementation, the grass-roots government can have a certain degree of executive autonomy for the needs of emergency work, but at the same time, it should consider the necessity and proportionality of the exercise of administrative emergency power. For example, grass-roots governments have the right to set standards and time for closure according to specific conditions. For large communities and villages, they should be determined according to the needs of incident prevention and control, the number of people entering and leaving, and traffic conditions, rather than just opening one entrance and exit for the convenience of management.

(3) Time limit of measures

The so-called time limit system mainly refers to the system of the maximum time limit to be observed when the administrative organ implements the administrative emergency compulsion with time continuity. Yang Jiejun: *Administrative Law*, China Founder Publishing House, 2002, p. 96. In the administrative compulsory measures restricting personal freedom, a certain time limit shall be set. If the time limit exceeds, the personal freedom of citizens shall be restored in a timely manner. The author believes that if the closure measures of village communities are adopted, the corresponding events must not be minor events, so the time limit of closure measures should also be set by the government at or above the county level.

7. Conclusion

Administrative emergency power is a special kind of administrative power, which cannot be exercised under abnormal conditions. In the prevention and control of the New Coronary Pneumonia epidemic, the grass-roots government, as the township government and the sub district office, has firmly organized the prevention and control network in the group prevention and control, playing a vital role. Emergency prevention and control also involves the exercise of administrative emergency power. Therefore, the administrative emergency power of grass-roots governments in public health emergencies should be confirmed by law. This paper argues that the basic unit government in the process of exercise of right of emergency, shall abide by the principle of legal principle, proportion principle, the principle of human rights have permission, etc., it should have a mandatory administrative emergency power including isolation measures, the right place closed implementation power, material requisition power, at the same time, the government at the grass-roots level shall be drawn up in the public health emergency in the guidance of the administrative emergency power.

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