

Theoretical Origins of the "Pujiang Experience" and Its Implications for China's Social Governance

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Abstracts: The "Pujiang Experience" refers to the practice where leading cadres visit the grassroots level in person to receive and listen to the demands of the people, transforming the situation from the people's initiative to visit to the cadres' initiative to visit. The "Pujiang Experience" draws on the principle of power restraint common to the Anglo-American legal system, the civil law system, and the socialist legal system. It achieves "judicial activism" by establishing a performance evaluation mechanism and constructing a standardized incentive mechanism. The "Pujiang Experience" has a close theoretical connection with the "Fengqiao Experience". The post-event mediation of the "Pujiang Experience" complements the pre-event intervention of the "Fengqiao Experience". The "Pujiang Experience" offers the following implications for procuratorial organs: prioritizing stability and development and enhancing the prevention of social risks; focusing on strong supervision and proactive action to prevent judicial risks of doubt; focusing on optimizing service paths to prevent governance risks of limitation; and emphasizing practical results to prevent risks of deviated guidance.

1. Introduction

The "Pujiang Experience" refers to the practice where leading cadres visit the grassroots level in person to receive and listen to the demands of the people, transforming the situation from the people's initiative to visit to the cadres' initiative to visit. It aims to change the work concepts of judicial staff, innovate the thinking of mass work, and improve the mass work route, interpreting the people-centered ideology. It mainly has four aspects of connotations:

First, it is conducive to implementing the whole-process people's democracy. The "Pujiang Experience" adheres to the people first, by proactively going deep into the grassroots level to face-to-face publicize policies and laws, understand the people's situation, listen to the people's opinions, warm the people's hearts, and gather the people's wisdom, ensuring the people's right to know, right to suggest, and right to supervise. It is conducive to improving and optimizing work, striving to achieve development for the people, by the people, and the fruits of development shared by the people. Second, it is conducive to maintaining the harmony and stability of economic and social development. The "Pujiang Experience" emphasizes that leaders personally solve problems, and the leadership has the macroscopic vision in decision-making, the appeal in departmental coordination, and the advantages in policy formulation and preventive intervention. It is conducive to maintaining social harmony. Third, it is conducive to promoting the modernization of social governance. The

"Pujiang Experience" emphasizes proactive behavior, by having leading cadres proactively approach the grassroots level and the people to shorten the distance and enhance trust, smooth the channels of communication with the people, provide great convenience for the people to seek legal relief, better solve various contradictions and problems, and at the same time understand and grasp the situation at the grassroots level during the visit and reception, grasp the work rules, and make policy formulation and implementation more in line with actual needs. Fourth, it is conducive to strengthening the style of work construction of the public security force. The "Pujiang Experience" emphasizes practical results and effectiveness, by changing work concepts, changing work models, and improving work effectiveness, further strengthening the connection with the people, enriching and developing the Party's mass line, and playing a leading and exemplary role in improving the work style of the cadre team and overcoming bureaucracy and formalism. This article studies the political and legal theoretical origins of the "Pujiang Experience" from the perspective of the intersection of political science and law.

2. Theoretical Origins of the "Pujiang Experience"

The "power restraint" theory advocates that the executive power, legislative power, and judicial power of the state do not interfere with each other and restrains public power through the "power-power" restraint model. Under this model, the exercise of public power by the state stops at the private rights of citizens. The state's management and restraint of citizens' rights are limited to mediation and the issuance of guiding documents. At this level, the "Pujiang Experience" adheres to the principle that "what is not prohibited by law is free", and attaches great importance to the reasonable demands of citizens. The models of power restraint include power-power, rights-power, and rights-rights. Continental law countries tend to adopt the power-power model, such as Germany's "rule of law state" principle, which advocates establishing a legal order based on statism. Under this legal order, the state plays a dominant role in civil disputes, but its drawback is that the inequality between "state citizens" in the administrative process of the state will further increase with the improvement of legislation. Maritime law system countries tend to adopt the "right-right" model. Under the dominance of utilitarianism, the state classifies citizens' rights into several grades and implements different levels of protection based on the significance of the legal interests. In this process, citizens assert their private rights granted by constitutional documents to counter others' infringement. The state, in turn, adjudicates civil disputes based on relevant customs and folk law traditions. The socialist law system has gone through the processes of "power-power" and "right-power". At the beginning of the Soviet Union's establishment, due to the counterattack of the Tsarist White Army and the military blockade by capitalist countries, the Soviet Union implemented the War Communism policy, where the state monopolized all civil disputes and comprehensively controlled politics, economy, and culture through public power. At that time, since the Tsar had just been overthrown and the ideological awareness of the Soviet people still needed improvement, the Soviet Union adopted the "power-power" model, using public power to uniformly control citizens' disputes. After World War II, the Soviet economy developed significantly, and its government control policies changed accordingly. After World War II, the Soviet Union adopted the "power-right" model. After the founding of the People's Republic of China, China innovated on the Soviet legal theory, that is, by safeguarding the democratic rights of the people, through the positive interaction between state public power and citizens' private rights, to achieve good communication between judicial organs and citizens.

This communication is mainly reflected in the construction of a rational dialogue space. In Habermas' legal theory, the concept of the rationality of communicative action is an unshakable cornerstone. Society can be divided into systems and the lifeworld. Systems are behavioral fields organized by non-linguistic media such as power and money, where the dominant factors are rational

forms, rational purposes, and effective tools and methods. In contrast, the lifeworld is a social behavioral field integrated through language, where the dominant factors are meaning, communication, and mutual understanding. In modern society, the expansion of industrial economy and administrative institutions has led to the domination of the lifeworld by systems, thus hindering daily communication practices. To enable the lifeworld to defend against the invasion of systems, it is necessary to re-recognize and evaluate the rationality of communication behavior. The so-called "rationality of communication" refers to the rationality achieved in the dialogue process of reaching consensus without being influenced by interests and coercive methods. It is essentially different from formal rationality and instrumental rationality and belongs to the category of value meaning. The ideal dialogue state that can guarantee the rationality of communication needs to be realized through legal systems. The "Pujiang Experience" achieves the rationality of communication by establishing direct dialogue between the government's top level and the people. In the early 21st century, China proposed "active judiciary", which pointed out that the function of the judiciary is not only to resolve restrictive administrative disputes by following strict rule formalism, nor is it merely to flexibly handle incentive administrative disputes. The active role of the judiciary mainly lies in establishing general principles of judicial activities or creating necessary incentive mechanism rules through the resolution of individual disputes. The "Pujiang Experience" is based on the assessment of the procuratorial system to establish an incentive mechanism for actively mediating people's conflicts, thereby establishing a standardized incentive mechanism to improve the mediation mechanism. ^[1]

3. The "Pujiang Experience" Inheriting the Theoretical Essence of the "Fengqiao Experience"

In May 1963, Chairman Mao convened a meeting of the Central Political Bureau in Hangzhou, specifically discussing and issuing the "Decision on Some Current Issues in Rural Work (Draft)", emphasizing the need to address the erroneous ideologies of imperialism, feudalism, and the bureaucratic comprador bourgeoisie through socialist education campaigns. The Zhejiang Provincial Committee, in line with the spirit of the "Decision", launched socialist education campaigns and selected three regions, including Fengqiao District in Zhuji County, to conduct pilot projects. In other words, the "Fengqiao Experience" emerged from the socialist education campaigns during a special period. Although the "Fengqiao Experience" has democratic characteristics of mobilizing the masses to participate, the initial "Fengqiao Experience" placed more emphasis on the "dictatorship" aspect of "people's democratic dictatorship". This was closely related to the fundamental feature of the political and legal system at that time, which emphasized that the "law" element should be subordinate to the "politics" element, and the effectiveness of political and legal work was ultimately judged by whether political goals could be achieved. As the socialist education campaigns deepened, Chairman Mao noticed that the political and legal system had engaged in overcorrection in the fight against enemies, such as expanding the scope of the struggle and radicalizing the methods of resolving conflicts. Therefore, he proposed resolving disputes locally, advocating self-mediation by the masses, and adhering to the principle of not escalating conflicts. ^[2]The "Fengqiao Experience" has been evolving since its inception. Its core lies in building grassroots self-governance, mobilizing the masses, and resolving conflicts locally without escalating them. After the reform and opening, the "Fengqiao Experience" was endowed with new missions due to its unique multi-faceted, multi-dimensional, and multi-level dispute resolution functions. Since the 18th National Congress of the Communist Party of China, the "Fengqiao Experience" has added new connotations to achieve the goal of modernizing social governance, namely, creating a "co-construction and co-sharing" social governance pattern. The "Fengqiao Experience" has transformed from a political mass movement approach to a grassroots social governance model; from an experience in rural governance to an important component of the socialist rule of law concept in China's grassroots social governance;

from a governance orientation of rigid stability maintenance to an administrative guiding principle of safeguarding citizens' rights; and from a conflict resolution approach involving mass participation and democratic decision-making to a model for coordinating the relationship between judicial and social self-governance in China's grassroots social governance.^[3]

The Pujiang Experience and the Fengqiao Experience share similarities in preventing and resolving social conflicts. First, the Fengqiao Experience focuses on "not passing problems up the chain, and having the people solve their own problems", resolving civil disputes and internal conflicts among the people at the grassroots level through mediation and reconciliation, and taking preventive measures to avoid mass incidents. It aims to solve internal conflicts among the people through a diversified dispute resolution mechanism, from multiple dimensions, levels, and aspects, providing solutions to alleviate the judicial pressure in China. At this level, the Fengqiao Experience emphasizes solving problems "from the bottom up". The Pujiang Experience, on the other hand, places more emphasis on the leading role of the leadership and leading cadres, resolving conflicts by having leaders personally visit and understand the situation at the grassroots level. At this level, the Pujiang Experience also focuses on solving problems "from the bottom up". Second, the Fengqiao Experience, as an advanced concept of a diversified dispute resolution mechanism, focuses on pre-emptive intervention in conflicts to prevent internal conflicts among the people from escalating to the judicial level. The Pujiang Experience, however, focuses on post-conflict intervention, aiming to minimize the negative social impact after a conflict has erupted. Third, the Fengqiao Experience, having been tested by history, is mainly applied to avoiding litigation. The Pujiang Experience, on the other hand, emphasizes the leading role of the leadership and leading cadres, and focuses on understanding the situation at the grassroots level for already occurred petitioning incidents. It can be seen that the Fengqiao Experience and the Pujiang Experience have a theoretical connection that builds upon each other.

4. Implications of the "Pujiang Experience" for Modern Social Governance

The report of the 20th National Congress of the Communist Party of China emphasizes the need to put people first and makes arrangements for strengthening the supervision of social governance institutions, improving people's well-being, standardizing the operation of administrative power, and promoting the construction of the legitimacy of administrative law enforcement. Through the examination of the "Pujiang Experience", this article believes that it has the following implications for social governance work.

4.1 Taking stable development as the top priority and having the whole people prevent social risks.

First, it is necessary to ensure the people's demand for a fair development environment. Development is the top priority for governance and national prosperity. If the economy does not grow or grows unevenly and incompletely, the people's demands for employment, entrepreneurship, housing, medical care, and a high-quality life cannot be met, which will undermine social stability and lead to social conflicts. Therefore, the social governance authorities must always plan and carry out their work around the central tasks. They should continuously serve and support the development of the real economy, enrich and expand measures to serve the private economy, solve problems and do practical things for enterprises, and create the best business environment to enhance the people's confidence in development.

Second, it is necessary to meet the people's demand for a safe and orderly environment. Social stability is the prerequisite for economic development and the people's peaceful and prosperous life. The social governance authorities should use administrative power prudently, especially in

administrative penalties that affect the people's sense of security. They should ensure that administrative actions are legal and reasonable and enhance the people's recognition of fair and just rule of law.

4.2 Actively supervise to prevent risks of questionable administrative law enforcement

When handling civil disputes, the social governance authorities should strive to form a supervisory synergy. They should actively seek the leadership of the Party committee, strengthen coordination and cooperation with the People's Congress, the Political and Legal Affairs Commission, and the Procuratorial Commission, and build a multi-level, multi-directional, and multi-dimensional coordination and cooperation model of supervision by the People's Congress and the Commission for Discipline Inspection to enhance the supervisory synergy and create a favorable external environment for proactive supervision and performance of duties. At the same time, they should enhance the people's trust in the social governance authorities' case handling, improve their on-site experience, and reasonably urge administrative law enforcement to be more open and transparent, so that the people can feel fairness and justice in the results.

4.3 Optimize service paths to prevent risks of limited governance

The 20th National Congress report emphasizes the transformation of the public security governance model towards pre-emptive prevention and the improvement of the social governance system. Build a comprehensive and integrated governance pattern for resolving conflicts and disputes. Conflicts and disputes are a comprehensive reflection of contradictions in various fields and aspects of society at a certain period, featuring multiple subjects, diverse demands, and various types. Therefore, with the aim of achieving win-win, shared, and collaborative governance, externally, we should actively integrate into the overall social governance framework. Under the unified leadership of the Party committee, we should rely on and promote the Party committee to integrate administrative, judicial, and grassroots organizations, as well as social forces, to play the role of a fulcrum and a sensor in inheriting social governance work, and promote the organic connection between mediation, administration, and judiciary.

4.4 Focus on practical results and prevent the risk of deviant guidance

The basic function of the petition work is to smooth the channels for public opinion and sentiment, resolve conflicts and disputes, maintain social harmony and stability, and a scientific and reasonable petition work assessment and publicity orientation is conducive to improving the quality and efficiency of conflict resolution, maintaining the authority and credibility of social governance law enforcement, and strengthening the connection between the Party and the people. We must strictly implement the "three-in-one" handling principle and the legal termination system for petition cases involving litigation. For petition cases that have been decided to be terminated, if the parties continue to petition, they should be subject to ideological education, psychological counseling, and behavioral correction. For those who, after education, approval, and persuasion, persist in petitioning, causing trouble, or disrupting social order through extreme means and resulting in serious consequences and suspected criminal activities, they must be resolutely dealt with.

4.5 Coordinate the governance path combining soft law and hard law

Since the 18th National Congress of the Communist Party of China, the Central Committee of the Party has proposed to incorporate intra-Party regulations and social norms into the legal norm system,

and the coordination of diverse norms in the rule of law has become an important issue in national governance. From the perspective of the theory of norm generation, social norms have gone through three stages: norm generation, norm promotion, and norm popularization. Norm generation refers to the process of institutionalizing social customs and the distribution of social interests, focusing on maintaining the existing distribution of interests, rights, and obligations. Norm promotion is the process of promoting existing customs and practices through state and other subjects and incorporating them into the scope of legal publicity in the form of state recognition and legislation, endowing them with legal evaluation value. Norm popularization is the process of making citizens voluntarily abide by relevant norms through psychological confirmation and habitual behavior, thereby forming a stable normative order. China's hard law norms for social governance have a relatively mature operation system, but research on folk customs, intra-Party regulations, and other norms is relatively weak. The key to diversified social governance lies in coordinating the value balance of law. Traditional legislation cannot fully cover or coordinate the relationship between the values of freedom, justice, order, and efficiency in law. The academic circle in China believes that the legitimacy resources of different norms are both complementary and may conflict. There are serious differences in some deeply rooted value issues, and merely relying on legal intervention may not be able to solve these value conflicts. In such circumstances, some principles or temporary consensuses formed by various social norms can be directly elevated to principles and confirmed in law.^[4]

Soft law and hard law exert influence on social governance in different normative forms. Law has two basic forms: hard law and soft law. "Hard law" refers to legal norms that require the guarantee of state coercive power for implementation, while "soft law" refers to those legal norms whose effectiveness structure may not be complete, do not require the guarantee of state coercive power for implementation, but can produce social effects. The image of soft law varies depending on the context. Soft law becomes law because it has the basic characteristics of law; soft law can be independent of hard law and become a basic form of law because it has unique characteristics that hard law does not have; soft law can become a basic form of law and play an important role in the public domain because it has the function of independently regulating public affairs. The reason why soft law does not conflict with hard law but rather complements it is due to the intricate legal logic, complementary legal functions, and mutual transformation of legal norms between the two.^[5] The hard law approach mainly focuses on the implementation of existing legal systems by the state to ensure the connection and transformation from the "ought-to-be" to the "actual" level of law. The main aspects of the hard law approach in providing legal protection for future industries include: controlling investment risks in future industries based on existing laws, that is, improving relevant enterprise management legal systems, and establishing investment, loan, and market access rules for future industries from the legislative level to ensure the development environment of future industries; providing relief measures through the interaction of administrative law, criminal law, and economic law for those who hinder or harm the development of future industries; and through relevant legislation, extending the general principles of civil and commercial law to the development process of future industries.

The soft law approach differs from the hard law approach. From a sociological perspective, soft law norms are mainly reflected in social rules, social norms, and social concepts. Social rules refer to the "interest distribution" pattern formed during the process of social operation through interest games, that is, the consensus on the existing interest distribution. This consensus can provide a normative basis for resolving disputes when they occur; social norms are the institutionalized regulations of the interest distribution pattern under social rules; social concepts focus on guiding the inherent regulations of new interests in the development of industries through concepts. To a certain extent, the soft law approach is a supplement to the hard law approach. It mainly lies in the fact that the soft law approach can effectively make up for the bucket board effect of the hard law approach.

It is difficult for different hard law norms to develop in a balanced and coordinated manner. Those lagging in development, especially some secondary rules such as recognition rules, collection rules, enforcement rules, and power rules, will form a short board. If not filled by soft law norms, it will restrict the improvement of the overall level of the rule of law.

The "Pujiang Experience", as an advanced experience in social governance, advocates the integration of hard law and soft law approaches, establishing a diversified dispute resolution mechanism through legal means to properly handle the contradictions in social governance.

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