

# 中国控告申诉检察 管理模式研究

张国臣 著

A Study on China's  
Procuratorial Management  
Method for Complaints and  
Appeals

河南大学出版社

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# 中国控告申诉检察管理模式研究

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## 序 —

**控告申诉检察工作管理的创新**

最高人民检察院检察长曹建明在学习贯彻全国政法工作会议精神讲话中指出,要深入推进检察体制和工作机制改革,为检察工作发展注入新的生机和活力。张国臣同志是管理学博士,从事政法工作多年,2008年3月任河南省人民检察院党组副书记、副检察长。国臣同志勤于学习和研究问题,在认真学习中央、省委和最高人民检察院有关文件、规定精神,深入基层调研,系统总结控告申诉检察工作实践经验的基础上,运用现代管理学理论,对新时期推进控告申诉检察体制和机制改革,实现控告申诉检察工作科学发展进行了许多探索和思考,完成了《中国控告申诉检察管理模式研究》一书。读后,我感到该书最大的特点是创新,主要体现在三个方面:

**一、思路方法的创新。**思路方法是达到某种目的而采取的途径、步骤和手段。只有思路方法创新,才能实现管理模式创新。控告申诉检察管理是一门学问,加强管理,有利于规

范执法行为,提升工作水平,提高工作效能,促进工作发展。作者以科学发展观为指导,立足发展、全面协调可持续和统筹兼顾,运用现代管理学理论,研究控告申诉检察工作基本发展规律,提出了构建理念、机制、组织与目标“四位一体”控告申诉检察管理系统的设想,阐述了理念是支撑,机制是平台,组织是主体,目标是愿景,四者相互作用、相互促进、相辅相成的关系,构成了一个开放的、多维的控告申诉检察管理体系。作者用散文的笔法,写出了检察工作管理的理论文章。全书逻辑严密,层次清晰,文风朴实,语言清新,值得一读!

**二、管理理念的创新。**理念是实践的指导思想。科学的理念指导作者思考控告申诉检察管理中的理论和实践问题。一是坚持科学发展。全书以科学发展观指导控告申诉检察工作,以科学发展观为标尺,查找不足,研究措施,改进工作。二是坚持以人为本。我国是法制文明古国,人文主义是其哲学基础。作者在汲取我国古代法制传统精髓的基础上,结合西方人本思想,强调用以人为本的核心理念指导控告申诉检察工作,把保障权利与保障民生有机结合起来,体现了控告申诉检察工作执法为民的本质。三是坚持知识管理。随着知识经济时代的到来,经济社会生活日趋知识化、网络化和信息化,知识和信息成为推动经济社会发展的核心要素,以信息化为方向的知识管理日益成为当今世界管理发展的主流形态。作者提出要加强控告申诉检察信息化建设,开展视频接访、网上接访,建立控告举报信息化外部和内部两个应用平台,实现控

告举报线索受理、管理、监督、反馈的信息化,把握住了检察工作发展的规律。

**三、管理模式创新。**管理模式是从特定的管理理念出发,在管理过程中固化下来的一套操作系统和方法。作者以检察实践为基础,把现代管理学中的前沿理论引入控告申诉检察工作分析过程。一是把扁平化管理理论引入到举报工作中,构建出举报工作“三位一体”管理模式,即举报工作管理位置龙头化、方法扁平化、手段信息化。这既是对最高人民检察院新修订的《人民检察院举报工作规定》的深入落实,也是实现举报工作科学管理的创新举措,有利于提高举报工作管理水平,深入推进反腐倡廉建设。二是把系统论运用到处理涉检信访工作中,提出源头预防、承诺稳访、协调处访、联合接访、信息管访、督查结访的处理涉检信访“六位一体”工作模式,有利于全面贯彻落实《中央政法委员会关于进一步加强和改进涉法涉诉信访工作的意见》,对于深入推进社会矛盾化解、社会管理创新、公正廉洁执法具有较强的实践意义。三是把学习型组织运用到检察队伍管理中,提出学习型、复合型和专家型相结合的“三型”控告申诉检察队伍管理模式,提出党员检察干警要做到不贪财,做廉洁从政的表率,不张狂,做执法为民的表率,不结党,做团结和谐的表率,不营私,做公正执法的表率,不忘本,做勤奋敬业的表率,不保守,做科学发展的表率,贯彻了党的十七届四中全会精神,有利于进一步提高检察机关执法公信力,强化高素质检察队伍建设。

实践出真知,创新无止境。该书的探索尽管是初步的,有的观点还需要进一步深入研究和完善,但瑕不掩瑜,我愿意把它推荐给读者朋友们。希望国臣同志再接再厉,继续开拓创新,在做好检察工作的同时,在学术研究创新方面取得新的更大成绩!

是为序。

2009年12月16日于郑州

(蔡宁,河南省人民检察院党组书记、检察长,二级大检察官)

## Preface I

**An Exploration and Innovation on  
Prosecutorial Complaints and Appeals Management**

Cai Ning

During the Conference on Studying and Implementing the Spirit of the National Political and Judicial Work, Dr. Cao Jianming, Attorney-General of the Chinese Supreme People's Procuratorate, pointed out in his speech that we should further advance the reform of public prosecutor's work system and working mechanism and inject more vigor and vitality into the development of procuratory work. Dr. Zhang Guochen received his Ph. D. in Management, and has extensive experience in political and legal work. In March 2008, he was appointed the Deputy Attorney-General and the Deputy Party Secretary of Henan Provincial People's Procuratorate. Dr. Zhang is a diligent scholar and researcher. Having carefully studied the spirit of the provisions issued by the central CPC, provincial CPC, Supreme People's Procuratorate and other relevant documents, and researched in the grass roots, Dr. Zhang systematically sums up prosecutorial complaints and appeals on the basis of practical working experience. Through the lenses of modern management theories, he carefully examines the institutional and structural reforms of the prosecutorial complaints and appeals system, explores and analyzes the



scientific development of prosecutorial work, and thereupon completing this book *A Study on China's Procuratorial Management Method for Complaints and Appeals*. The book's most distinguishing feature that strikes me is innovation, which is mainly reflected in three aspects:

First of which is the innovation in conceptual analysis. Thinking approach denotes the steps and means to achieve certain goals. Only with creative reasoning and examination approaches, can one contrive innovative management methods. The prosecutorial complaints and appeals management is a discipline. Strengthening systematic management is conducive to regulate law enforcements, to enhance work performance, to improve work efficiency, and thus promotes working progress as a whole. Employing the Scientific Concept of Development as guidance, while adhering to the concept of comprehensive, coordinated, sustainable and balanced reform, the author applies modern management theories to study the developing trend and pattern in prosecutorial complaints and appeals work. Dr. Zhang puts forward a vision of building a "Four in One" prosecutorial complaints and appeals system by the central CPC, provincial CPC, Supreme People's Procuratorate and other relevant documents, and researched in the grass roots, Dr. Zhang systematically sums up prosecutorial complaints and appeals on the basis of practical working experience. Through the lenses of modern management theories, he carefully examines the institutional and structural reforms of the prosecutorial complaints and appeals system, explores and analyzes the

open and multi-dimensional complaint and petition management system. From the stylistic prospective, the author applies a prose style of writing to compose a compelling essay on the theory of prosecution work management. Overall, this book is logically impermeable, clearly leveled, with simple writing style yet refreshing language. So, well worth reading as it is!

The second is innovation in management philosophy. Philosophy is the guiding ideology of practicality. Scientific philosophies guide the author to explore the issues on management theory and practice in the prosecutorial complaints and appeals. Firstly, this book adheres to a scientific development. The Scientific Concept of Development guides the prosecutorial complaints and appeals work throughout the book and serves as a benchmark in finding shortcomings, in examining proceedings, and in improving work. Secondly, this book adapts to people-oriented philosophy. China is an ancient civilization with the rule of law, and humanism is its philosophical foundation. The author not only draws from the essence of China's ancient legal traditions, but also combines it with the Western ideology of humanitarianism. He emphasizes a people-oriented philosophy to devise the prosecutorial complaints and appeals work, and organically grafts together the protection of rights with safeguarding citizens' livelihood, which in turn reflects the essence of a people-oriented philosophy in prosecutorial complaints and appeals work. Thirdly, this book advocates information management. As the information economy era progresses, knowledge, informa-

tion, and internet become increasingly important in eco-social life. Knowledge and information has become the core element in promoting the economic and social development, and informationization becomes the mainstream knowledge development pattern in today's world. The author emphasizes the strengthening of the prosecutorial complaints and appeals information technology, which includes conducting video conference and online registrations when receiving visitor complaints; establishing a reporting information platform in both external and internal application to achieve full informationalization on admission of clues, management, supervision, feedback, etc. All of these will aid in grasping the development pattern of procuratorial work.

Lastly is the innovation in management models. Management model is a fixed operating system and method derived from a particular management concept. The author utilizes his experience in prosecution practice, introduces the forefront of modern management theories to the analysis of the prosecutorial complaints and appeals process. First, the flat management theory was introduced into Reporting practice, constructing a "Trinity Reporting Management Model": to prioritize the management of Reporting work; to flatten the management process; and to realize informationalization. This will not only serve to better implementing the Supreme People's Procuratorate's newly revised "*People's Procuratorate Reporting Rules*", but also will provide an inventive to achieve scientific management of Reporting work, which can contribute to raising the level of Reporting work management stand-

ard and the promotion of the anti-corruption campaign. Second is the utilization of the system in processing procuratory-related letter and visit petitions. The author proposes a "Six in One" working model; preventing petitions in its infancy stage; offering assurances to stabilize visitors; mediating the issues in petitions; coordinating with other bureaus to jointly process petitions; systematically managing information on visits; and supervising the closing of each petition. This model is conducive to the full implementation of the Central Political and Law Commission's issuance *"On Further Strengthening and Improving Procuratory-related and Suit-related Petition Work"*. Furthermore, this working model is practically significant in terms of the advancement of resolving social contradictions, initiating originality into social management, and enforcing law fairly and honestly. Thirdly, the Learning Model organizational method is applied to the management of prosecution team. Dr. Zhang proposes to apply the combination of "III Modes": the Learning, the Experts and the Composite modes in organizing and managing prosecutorial complaints and appeals staff. The author advises prosecutors and police officers to shun away from greediness, in order to set an example for clean and honest administration; to avoid being insolent, so as to send the proper message that law enforcement is for the people; to not form "gangs", in order to set an example of unity and harmony; to not only think of one's private gains to set an example of just law enforcement; to not forget the root of their duty and role and become a role model of hardworking citi-

zen; and to prevent being overly conservative, in order to set an example of scientific development. These pieces of advice fully implement the spirit of the Fourth Plenary Session of the Seventeenth Central Committee, further enhance the credibility of the law enforcement in procuratorate, and strengthen the construction of a highly qualified prosecution team.

Practice is the essence to real knowledge; innovation is endless. Although this book is a preliminary exploration, and some ideas may need further study and perfection, still, the quintessence of the ideas shine through the trivial flaws. I would strongly recommend it to the readers. I wish Dr. Zhang continue to work and explore innovatively in procuratorial work, and to gain more pioneering and momentous achievements in academic research and innovation!

Thus I Recommend.

December 16, 2009

Zhengzhou

Cai Ning

Attorney-General and the Party Secretary of Henan Provincial People's Procuratorate;

Grand Justice Prosecutor of the second level

## 序 二

## 理论的升华 实践的超越

张晋藩

学问勤中得，萤窗万卷书。在我看来，张国臣同志首先是一位学者，有着渊博的知识和深厚的文化积淀。他是管理学博士、大学兼职教授，现在又在攻读法学博士学位。文化的力量催动着伟大的热情。在他洋洋洒洒四百万言的九卷文集《嵩山的流泉》出版获得好评之后，他的理论研究和笔耕没有停止，又推出倾力之作《中国控告申诉检察管理模式研究》。这部法学专业性很强的学术专著，以管理学的研究方法，对控告申诉检察管理中的一些重大理论和实践课题进行了战略性思考和探索性研究，既是检察管理理论的创新升华，又是检察管理实践的自我超越，更是作者勤奋、执著、创新、奋进的智慧结晶。通览全书，我认为该书具有以下五个特点：

**一是系统性。**系统性要求内容丰富，条理清晰，逻辑严密，形成体系。该书把管理学理论运用到控告申诉检察工作中，既有实证性的分析，又有规范性的论证，既有历史的比较，又有现实的探讨，实现了控告申诉检察管理理论研究的系统化。在时间维度上，作者以历史的眼光，跨越5000年的时空，

既从渊源上对我国古代御史监察制度进行了考察,又从形式上对诽谤木、肺石、鲋筒、铜匭、登闻鼓等具体制度进行了分析,深刻揭示了我国古代控告申诉制度的丰富内涵。在空间维度上,作者以超国界的视角,既对大陆法系和英美法系检察制度进行了比较分析,又对中国内地、台湾、香港、澳门四大法域检察制度进行了对比考察。在体例结构上,作者以严密的逻辑思维,以理念、机制、组织、目标等为基本要素,立足中国特色社会主义检察制度的大背景,建立了系统的控告申诉检察管理体系,强调要创新控告申诉检察工作理念,健全完善控告举报、涉检信访、刑事申诉、刑事赔偿管理机制,建设学习型、复合型、专家型检察队伍,在促进社会和谐中实现检察工作的创新发展,使得该书在内在联系的结构上浑然一体,展现出理论研究成果的科学价值。

**二是开拓性。**只有开拓才能创新,才能发展。在研究方法上,作者把现代管理理论与控告申诉检察工作有机结合,开创了以管理学方法研究检察工作的先河,这是检察理论研究和应用研究的新探索,体现了可贵的创新精神和严谨的治学态度。在制度安排上,作者以管理学的思维,对控告申诉检察管理模式进行了科学设计,提出要创新控告申诉检察工作“九大理念”,完善举报工作“九项机制”,构建涉检信访工作“六位一体”管理模式,建立刑事申诉工作“七项机制”,丰富了控告申诉检察管理内涵。在理论分析上,作者把马斯洛的需要层次理论引入到检察工作中,把人文主义思想渗透到工作的全过程,提出坚持以人为本,要树立有理推定、有解推定、有错推定和有偿推定的理念,维护群众合法权益,实行司法救助,彰显了司法人文关怀,充分体现了控告申诉检察工作执法为民的本质。

**三是前瞻性。**理论的创新离不开理论的前瞻。作者以信息技术和管理学知识为导引,对控告申诉检察管理中的有关理论问题和实践课题进行了前瞻性研究,表现出作者扎实的理论创新能力和实践运用能力。如,随着信息技术的发展,信息化已成为时代发展的潮流。作者早在2004年就提出要加强队伍、业务和信息化“三位一体”建设,把信息化引入检察工作,得到了最高人民检察院领导批示,进入决策。在该书中,作者又专章研究了现代信息技术条件下的控告举报信息化建设问题,并以管理学的视角,提出要健全举报工作位置龙头化、管理方法扁平化、管理手段信息化的“三位一体”管理模式,展示了作者敏锐的洞察力和前瞻的思维,对进一步加强和改进控告举报工作具有重要指导意义。

**四是理论性。**没有科学的理论,就没有伟大的实践。科学发展观是我国经济社会发展的重要指导方针。只有深入贯彻落实科学发展观,加强理论创新和制度创新,才能推动检察工作科学发展。作者提出,以科学发展观为指导,加强控告申诉检察工作,必须围绕第一要务,服务经济社会又好又快发展;坚持以人为本,维护群众合法权益;落实基本要求,化解矛盾纠纷,促进社会和谐;把握根本方法,转变执法观念;勇于改革创新,构建检察工作科学发展的体制机制。这些理论创新符合党的十七大精神,体现了科学发展观的精神实质,与中央和最高人民检察院的要求相一致,是学习实践科学发展观的具体成果,是对检察工作规律的准确把握。理论是对实践的超越。国臣同志曾任河南省委政法委常务副书记,还兼任省社会治安综合治理办公室主任,积累了政法综治、平安建设宏观管理的丰富经验,曾以系统化、科技化、法治化、产业化的现代化理念,设计出治安防范管理现代化博弈模型和人、物、行等边三角互动组织管理模式,在实践中获得了良好效果。与时



俱进,本书关于控告申诉检察管理的研究成果,是作者多年丰富的政法工作实践经验的升华。如,作者深入实践,深入基层,调查研究,对近年来处理涉法涉诉信访工作经验进行理论总结,创造性地设计出构建源头预防、承诺稳访、协调处访、联合接访、信息管访、督查结访的涉检信访工作“六位一体”管理模式,丰富了涉检信访工作理论,提升了处理涉检信访工作的系统管理水平。

**五是实践性。**理论的生命在于实践。作者科学地设计出人民检察院控告举报工作、涉检信访工作、刑事申诉和刑事赔偿工作的流程管理模式,直观而又简洁,形象而又生动,既能加强工作管理,又能在实践中运用,具有较强的可操作性。理论的价值在于其对实践规律性的把握。作者凭借现代管理理论的系统知识,把扁平化这一现代科学管理方法引入到控告申诉检察管理中,提出了加强举报线索管理,对要案线索要实行“一对一”管理,对本院管辖的线索要实行“一站式”管理,对一般线索要实行“流水线型”管理,创新了线索管理方法,减少了线索流转环节,加快了线索流转速度,提高了线索管理效能,对控告申诉检察管理模式作出了有益的探索!

“路漫漫其修远兮,吾将上下而求索。”国臣同志笃信天道酬勤,厚德载物,上善若水,大爱无疆,在学习工作实践中不断加强修养,探索提高。在此书问世之际,我谨表示衷心祝贺,并期望国臣同志在今后的工作中与时俱进,开拓创新,取得更多、更加丰硕的成果。

2009年12月6日于北京

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