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Notes on the Draft Regulations of the People's Republic of China on Punishment of Corruption

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The People's Republic of China Draft Regulations on Punishment of Corruption, after soliciting opinions from all quarters and making amendments, has been passed by the 130th political affairs meeting of the Central People's Government Administration Council. Now I will make the following report on the basis for the formulation of this regulation and the regulation itself, and submit it to the Central People's Government Committee for review and approval.

This regulation was formulated in accordance with Article 18 of the Common Program of the Chinese People's Political Consultative Conference on severe punishment of corruption and the facts and accumulated experience revealed in the "Three Anti" and "Five Anti" campaigns.

The "three evils" and "five evils" movements are a great mass movement that relies on the broad masses of the people, under the leadership of Chairman Mao, the Central People's Government and the working class, to cleanse the pollution left over from the old society. In the recent period, the broad masses of the people across the country have fought fiercely to stop the corrupt elements from breaking the law and discipline, to stop the rampant attacks from illegal bourgeois elements, to defend and implement the line of the common program, and have won great victories. Except for the large-scale corrupt criminals who completely violated the law and discipline among the state officials and the large-scale thieves in the industrial and commercial circles, this kind of struggle is still within the people's democratic united front. It uses mass movements and criticism and self-criticism. The principle of the common program is the struggle to transform the bad styles of society and among the state workers; it is the struggle of the broad masses of people who support the common program against illegal acts that violate the common program; it is the clean, simple, and honest work of the broad masses of state workers to serve the people. The revolutionary work style is a struggle against some corrupt corruption, waste, and the bad work style of bureaucrats; it is to conduct legal private industrial and commercial operations in accordance with the common program and national laws and regulations. The struggle against the illegal management of national economic intelligence. To put it simply, apart from the struggle against big corrupt criminals and big thieves, this is a struggle between two styles and two lines within the People's Democratic United Front. This is another mass social reform movement of great historical significance in our country after the three major movements of resisting U.S. aggression and aid to Korea, agrarian reform, and suppressing counter-revolutionaries.

In this movement, people referred to corruption, waste and bureaucracy as the "three evils"; the illegal acts of bribery, tax evasion, theft of state assets, cutting corners, and theft of national economic intelligence were referred to as the "five poisons." The five poisons are currently the main form of rampant attacks by illegal bourgeois elements on the country and the people, and the three evils are currently the result of the rampant attacks by illegal bourgeois elements.

Of course, the three evils also have other historical sources, that is, they are still the taint left by all the exploiters and reactionary rulers in the old society, and the illegal bourgeois elements are the main social class that inherits and supports these taints. Base.

Since we have been busy suppressing and eliminating the remnants of the Chiang gang in the past three years, busy resisting U.S. aggression and aid to Korea and land reform, busy restoring economic and cultural undertakings, and developing various construction undertakings, we have not had time to systematically wipe out these taints, and assets. The thieves in the class and the embezzlers in the state staff have taken advantage of our gap, colluded with each other, embarrassed themselves, and developed their criminal behavior wantonly.

But this is not to say that everyone in the bourgeoisie is breaking the law without distinction. In the past period, judging from the situation in major cities, the petty bourgeoisie (here refers to independent handicrafts and family businesses that generally do not hire workers and clerks, excluding vendors) and the bourgeoisie, among the total number of law-abiding Approximately 10%; about 60% of those who basically abide by the law but have minor violations; about 25% of those who violate the law and half the law; About 5% of them are capitalists who are highly speculative or completely speculative;

and their speculative nature is the most rampant and worst, accounting for about 1% of the total number of industrial and commercial households, and the number is not very large. This last group of people are the so-called big thieves. They are no longer our friends, but criminals. Therefore, except those who confess and repent and perform meritorious service, they must be punished by law. Among the above-mentioned proportions, law-abiding households and basic law-abiding households account for about 70% of the total number of industrial and commercial sectors. Most of them are petty bourgeois elements, but there are also many bourgeois elements, as well as some large industrial and commercial people.

Under the rampant attack of the lawless bourgeois elements and the erosion of the pollution left over from the old society, many corrupt elements of the state staff have emerged. Among them, the most serious and worst corrupt elements are also a minority. These big corrupt elements are no longer our comrades, but criminals who steal the wealth of the country and the people. Therefore, except for those who confess and repent and have performed meritorious services, they must be eliminated from our ranks and be punished by law.

When the "three evils" and "five evils" campaigns had not yet begun, the phenomenon of corruption among state workers and theft in the industrial and commercial circles were very serious. However, because our country has the leadership of the Communist Party and the working class, the well-trained and strong leadership backbone taught by Chairman Mao, and the enthusiastic support of the broad masses of the people, after Chairman Mao and the Central People's Government issued an order, "Three The anti-" and "five-anti" movements immediately spread across the country. The working people, revolutionary intellectuals, and active working cadres quickly united and responded to the call of the state. Finally, there were also workers and industrial and commercial workers who had washed their hands. Unite with us to form a great united front of the "three evils" and the "five evils", so that the big corrupt elements in state organs and the big thieves in society are completely isolated and subjected to severe blows and sanctions; The tendency of lawless bourgeois elements to run counter to the people of the country has been effectively stopped and corrected. At the same time, the bourgeoisie itself, because it has the leadership and supervision of the working class, has its own internal law-abiding, progressive, and active parts, and struggles against the illegal, backward, and passive parts, and thus has received a universal education. . After the "three evils" and "five evils" movements, we can already see that our people's democratic united front and the people's democratic dictatorship have been greatly consolidated, and the financial and economic conditions have been greatly improved. Intellectuals The old ideas that are not conducive to the people's cause have also been reformed, or are being reformed.

Now in order to punish the corrupt elements and thieves separately, to consolidate the victories of the "three evils" and "five evils" movements, and to continue the unremitting struggle against all corruption and theft, it is absolutely necessary to enact a law. Yes, this is the People's Republic of China Regulations on Punishment of Corruption that we will discuss today.

Below I will give some explanations on this bill.

The first is some basic principles adopted by this regulation.

In order to combine punishment with education, repression and leniency in order to achieve the purpose of punishing the past and the end and eliminating evil, we must implement the lenient past and stricter instructions of Chairman Mao when handling corruption and theft cases, most of which are lenient. , Minority is strict, confession is lenient, resistance is strict, state staff is strict, and non-state staff (except for a small number of heinous people) are lenient principles. These principles were gathered by Chairman Mao from the practice of our great "three evils" and "five evils" movements. Only in accordance with this principle can we properly solve many complex problems exposed in the movement. Therefore, many provisions of this regulation cannot but have great flexibility.

The so-called great flexibility means that, on the one hand, for a small number of criminals with serious crimes, those who did not repent of the resistance movement, and after the "three evils" and "five evils" movement, there were still or repeated corruption and theft. Criminals are punished severely or aggravated; on the other hand, among the corrupt and thief, those who confess before they are discovered or reported will completely confess and repent after being discovered and automatically

give up the stolen money and goods as much as possible. Those who have suffered minor incidents, those who have occasionally missed their feet, or those who have repented and made meritorious services despite the serious circumstances, adopt the policy of leniency and education and reform. In fact, we are now using two methods to eliminate corruption and thieves: one method is to catch them, sentenced to imprisonment, forced reform, and for a very small number of criminals and extreme criminals, sentenced to death; the other method is not to catch them. Customs, or sentenced to labor, control, or fined, or only administrative sanctions, and education reform. The first method deals with the minority, and the second method deals with the majority. Transforming a corrupter or thief so that he no longer corrupts or steals is equivalent to eliminating a corrupter or thief. Corruption and thief criminals have different plots and attitudes after the crime, but they should be handled with lenient, strict, minor and serious differences. Only in this way can it be both serious and cautious. As for why it is generally stricter for state workers, the reason is very simple. State functionaries are entrusted by the people. They are leaders and servants of the people. The country and the people should be strict with their requirements, and must be strict, otherwise it will be impossible to truly run our country's various undertakings well.

Secondly, I will explain some specific issues in the regulations.

1. This regulation focuses on the punishment of corruption. However, because most of the crimes committed by corrupt elements are related to bribery or theft by business thieves, the latter must be dealt with in a unified manner, and at the same time, they should be dealt with uniformly. As for the methods of corruption and theft, of course there are different. Regarding the corrupt elements: some are directly embezzling or stealing state property in various ways when dealing with public funds and property; some are defrauding or arranging state property in a false public and private way; or forcing others' property; or accepting illegal capitalists Bribery; or other illegal means of public welfare for private purposes, such as taking advantage of the position, smuggling, tax evasion, trafficking in drugs, or trafficking in other contraband. In terms of thieves in the industrial and commercial sector: some are embezzling and concealing enemy's counterfeit property or public property; some are bribing state officials, introducing bribes, or stealing national economic intelligence for personal gain; some are embezzling, stealing, and stealing from the country when engaging in economic exchanges with the country. Defrauding state property; some are evading national taxes; some are opportunistic, harming the public for self-interest, and seeking illegal gains, such as reselling gold and silver, evading foreign exchange arbitrage, disrupting price finance, etc. However, regardless of whether the corrupt elements in the state staff or the thieves in the industrial and commercial sector, all the things they embezzled and stolen are the property of the country and the people, they have also caused serious harm to the country and the people, and they should be dealt with in accordance with these regulations. punish. It's just that in specific handling, with the exception of a small number of heinous criminals, non-state personnel should generally be punished lightly.

2. This ordinance shall investigate those who have committed the crimes of this ordinance in the past. The time limit for investigation shall start from the date of establishment of the People's Republic of China, that is, October 1, 1949. However, if the corruption or theft is serious or the public is outrageous, it can be traced to the day of liberation of major cities and provincial cities. Places liberated after the founding of the People's Republic of China shall be counted from the date of liberation. The concealment and embezzlement of the enemy's pseudo-property shall be counted from the date of Japan's surrender; those that are not large in number and do not cause serious harm to the country may not be held accountable.

3. In terms of the types of sanctions, the regulations stipulate the sanctions of labor and control in criminal sanctions. These two types of sanctions are suitable for criminals who are not sentenced to imprisonment, but must be deprived of some or all of their political rights and reformed for a certain period of time. This is also an effective method that has been implemented for a long time in the old liberated areas, and now we have fixed it with provisions.

The death penalty, life imprisonment and fixed-term imprisonment may all be suspended as appropriate. Probation is mainly applicable to prisoners who confess to repentance or perform meritorious service. Both death penalty and life imprisonment probation are subject to imprisonment, which is examined in imprisonment and forced labor, and based on their performance during the probation period, the original sentence will be executed or the sentence will be commuted when the

probation period expires. The probation of fixed-term imprisonment may not be imprisoned during the probation period as appropriate, but shall be examined in the control.

We also include administrative sanctions such as expulsion, dismissal, demotion, demotion, demerit, and warning in the regulations. This is because some corrupt elements need to be given administrative sanctions as appropriate when they are exempted from criminal sanctions; for bribers with minor but thoroughly confessed circumstances, they must also be exempted and given warnings in the "five evils". In the "three evils" and "five evils" movement, this is a widely adopted method, so it should be written in the regulations.

4. Our standards for sentencing are based on the amount of personal corruption, but they are relative. In these regulations, sufficient attention has been given to the circumstances and severity of the crime and the attitude of the prisoner after the crime. For example, although the amount of personal embezzlement is the same, the degree of damage to the country and social undertakings and people's security is different because of their criminal acts, that is, they have different destructive effects, so the sentence is different. For another example, one is guilty of general corruption or theft, the other is guilty of bribery in law enforcement; one is guilty of general bribery, and the other is guilty of extortion; a perpetrator Both confession and meritorious service, the other offender refused to confess and resisted the movement; for these latter, of course the punishment should be aggravated or aggravated. Therefore, in the provisions, there must be provisions for lighter and heavier and to reduce the aggravation.

How should these regulations be applied in the actual trial?

It should be like this in the first place. For example, in Article 3, paragraph 3, there are three different penalties: the lightest is control, the heavier is labor, and the heaviest is imprisonment. In each sentence, there are differences in the length of the sentence. The lighter one is control, labor or imprisonment of one to two years, and the heavy one can be sentenced to three to four years of hard labor or three to five years of imprisonment. . According to the principle of lenient to the past and lenient to the majority, in this "three evils" and "five evils" movement, we will sentence more people who have committed the crimes of this paragraph to control or labor. In the future, There will be more sentenced to labor or imprisonment; for those who committed a crime in the past, the sentence will be shorter, and the sentence should be longer in the future.

Secondly, it should be like this. Take the third paragraph of Article 3 of this Regulation as an example. If one level is reduced, the penalties shall be imposed in accordance with the provisions of Article 3, paragraph 4; if the level is increased, the penalties shall be imposed in accordance with the provisions of Article 3, paragraph 2. The rest can be deduced by analogy. If there are more than two reasons for lighter punishment, it can be lighter and lighter, or even reduce one or more levels of treatment. For example, if the plot was originally minor, and it was due to a younger age, occasional missteps, an automatic confession of repentance, and an accusation of meritorious service, it can be treated repeatedly and reduced by one or several levels. Conversely, if there are more than one reason for severe punishment in Article 4 of this Regulation, the punishment will change from repeated severe punishment to one or more severe punishments.

5. The regulations also stipulate the handling of criminal acts committed by non-state personnel. Because bribery or introduction of bribes to state functionaries is an abominable criminal act, punishment should be imposed in accordance with the severity of the circumstances in accordance with the provisions of Article 3 of this Regulation. If the circumstances are particularly serious, part or all of their property shall be confiscated. However, according to the principle of lenient confession and strict resistance, those who thoroughly confess and inform the bribe recipient may be fined and exempted from other criminal sanctions. According to the principle of leniency in the past and strictness in the future, it is not necessary to pay bribes for those who gave small kickbacks to state officials in fair transactions before the promulgation of these regulations; for those who paid bribes in minor circumstances, fines and fines are also exempted. Sentenced, but only given a warning; subsequent offenses will be dealt with severely.

When dealing with illegal businesses, it is necessary not only to be lenient in the past, strict in the future, for the majority, for a few, for confession, and for resistance, but also for industry and commerce, and for ordinary commerce. Speculative business is strict. And because there has not

been a systematic "five-anti" struggle among them in the past, and our goal is to punish the past and the future, so in this "five-anti" movement, the vast majority of them were in the past. Illegal behaviors are dealt with in a particularly lenient manner, and only two types of severely violating households and completely violating households are punished, and they account for about 5% of all industrial and commercial households. Among them, they are differentiated according to the circumstances. In fact, only those industrial and commercial households who completely violate the law but refuse to confess will be subject to criminal sanctions in accordance with the provisions of Article 3 of this Regulation. If after the "five evils" movement and such leniency, anyone commits the crimes of this regulation again, then he should be punished severely.

6. All embezzled property or other illegal gains shall be confiscated or recovered. However, in the "Three Antis" and "Five Antis" movement, according to the past principle of leniency and majority leniency, for those whose corruption is less than one million yuan but the circumstances are minor and automatic confession, the illegal income of basic law-abiding households is two million yuan. The following parts are exempt from recovery. In addition, they should be confiscated or recovered as much as possible. If it is impossible to confiscate or recover, the judicial authority or the negotiating authority may, in consultation with the competent authority, make other appropriate disposals as appropriate. For industries that are beneficial to the national economy and the people's livelihood, appropriate care should be taken in accordance with the principle of industrial lenient. However, regardless of industry or commerce, anyone who is capable of making up the refund and refuses to make the refund shall be punished severely.

As for the scope of property confiscation, it should be limited to the property directly and indirectly operated or owned by the offender himself. The enterprise operated by it, such as a joint stock company, shall deal with the property of other shareholders in the joint stock company in accordance with its circumstances and the extent to which other shareholders are aware of criminal activities. If the family of the offender has no other source of livelihood, the family should be left with property that can sustain their lives when the confiscation is executed.

7. In order to ensure that the broad masses of people can give full play to their supervisory role, these regulations not only ensure that they have full reporting rights against corruption and theft, but also stipulate that all those who attack or retaliate against the informants, and State officials who deliberately shield or refuse to report corruption by their staff members shall be subject to criminal or administrative sanctions according to the severity of the circumstances.

8. Those who have committed the crimes of this Regulation in the past shall be punished in accordance with the general provisions of the Articles of this Regulation. Those who commit or re-offend the crimes of this Ordinance after the promulgation of this Ordinance shall generally be punished severely or heavier in accordance with the provisions of the Articles of this Ordinance (Article 17); Those who concealed and did not give an account during the "Five Evil" campaigns shall be found out in the future as a crime after the promulgation of these regulations.

My report is like this. Please review whether it is appropriate.