

In recent years, our country has paid much attention to administrative reform. Especially in 1995, the Party steers the way of reforming the national administration through its Resolution of the Central Committee's Eight Plenum. In such an atmosphere, some people misunderstand our national administration has been kept stable and unchanged from 1945 till now. As a matter of fact it has been transformed and reformed in line with every period of revolution. Many countries in the world also have the same situation. That is the law to develop the administration of countries and states in the world history.

1. ADMINISTRATIVE REFORM

In spite of declaration or not, every national administration has to be changed, reformed in accordance with every step of social development. The decisive factor of administrative reform is economy. Thus, whether an administrative system is good or not is considered through the efficiency of a nation's economic development. There are commonly three norms to say an economy is effective:

- Sustainably developed economy in 20 to 30 years.
- No or less unemployment.
- Uniform living standard of the people, no great discrepancy between areas.

To achieve enough three above results, every state incessantly adjusts its administration to rule the country. Anyway, every administrative system must be organized on four major factors as follows:

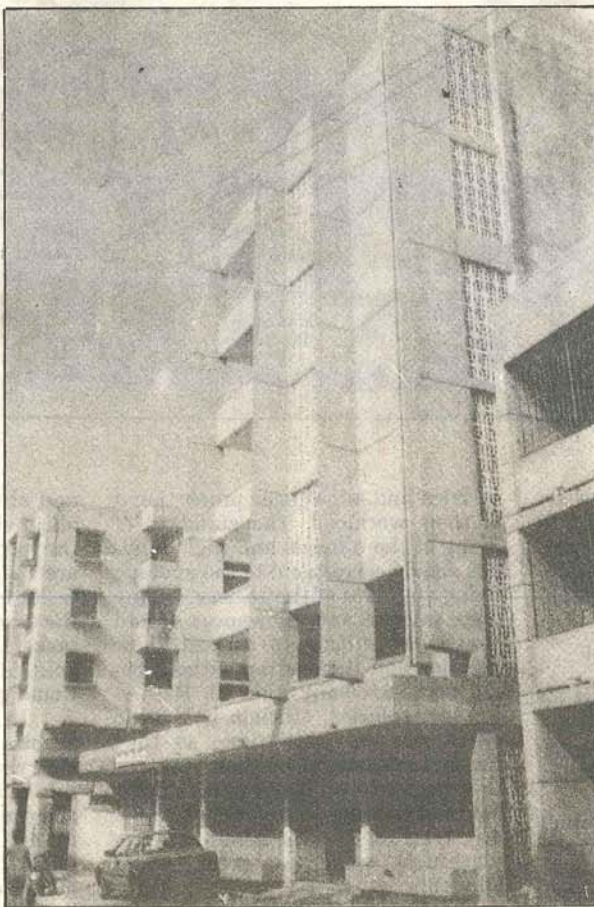
- Personnel factor
- Juridical factor
- Financial factor
- Machinery factor

1. Personnel factor

Civil servant is regarded as special job, the most difficult job. The administrative job is a kind

ADMINISTRATIVE REFORM IN THE JUDICIARY

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both requiring skill and artfulness. That is a managerial job forcing people to live and work in conformity to law.

As a result of this, civil servant should be carefully trained to have essential skill and artfulness.

According statistics, the number of civil servants in developed countries accounts for 10% of labour force in each country. That is a relative figure, how many civil servants each country needs depends upon various levels and factors. The Civil Service has to manage this figure.

2. Juridical factor

The law has existed for a long time and stayed in diverse concealment. It took shape due to requirement of community life. When the state came into being, law was fully used and became a decisive tool in ruling and management. Law is improved increasingly to facilitate the management. It should be adjusted, amended, supplemented to respond to socioeconomic development. Consequently, law is also a factor which needs reforming and supplementing.

3. Financial factor

Finance is a means of the state to manage national property. In each country, the state has the largest expenditure and property. So the financial management is extremely important, especially in the market economy; if there is loss and waste only accounting 1% of the national budget, but it is a big treasury contributed by the people. Finance is part of the state power. The state manages not only public properties but also national properties including public and private ones. Private properties seen from a certain angle are also national ones, creating the power of a country. So there is a saying: "the prosperous people make the country powerful".

4. Machinery factor

Powers are abstract

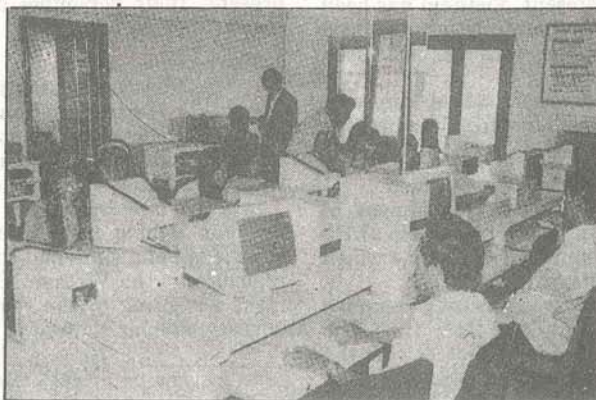
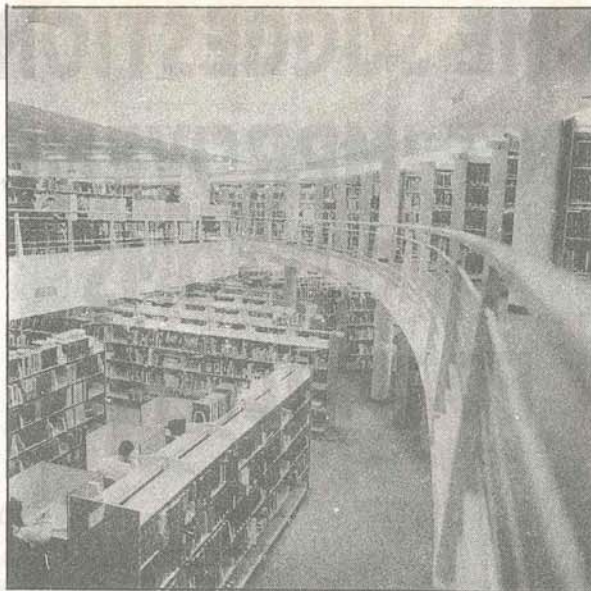
factors, therefore they are placed in an organization defined by law. The organization creates material forces, but law creates rights for force. Power is set up and operational in an apparatus. But it is fully used through the operating mechanism of a machinery. To institute the machinery is very significant to its effective operation. The functions of organs of the state apparatus should be determined adequately, exactly and clearly.

II. THE JUDICIARY AND ITS POWER

Before the bourgeois revolution, the state apparatus was organized in accordance with feudalism, all the powers belonged to the king. The king is a son of the God, ruling the people for God's sake. After overthrowing feudalism, bourgeois revolutionists set forth three-power theory to build the authorities of the people: the state of the people, for the people, by the people. The democratic mechanism of state with three legislative, executive, and judiciary powers is spreading in the world at the moment and accepted by many states. According to the situation in every country, these powers are instituted differently, not the same as other country. In spite of their organizational difference, most of the state power apparatus in the world is instituted with three powers: the legislative, the executive, the judiciary.

Many books analyzed and explained contents of the legislative and executive powers quite clearly. The concepts are similar but the organizational ways are different. There are still many different viewpoints about judiciary power. Some said the judiciary power is the power to protect laws, others argued it is the power to judge.

People have always sought for freedom and democracy. In community life people are aware of organizational issues and agree to concede part of their



freedom for security of their remaining freedom. During thousands of years in feudalism, that mechanism didn't secure democracy and freedom yet, but depended on employees in the state machinery. When the bourgeois revolution succeeded, the theorists invented the three-power

mechanism to limit the executive power and improve the people's democratic rights. To secure these rights better, people instituted the judiciary power so that every citizen can protect their democratic rights from the violation of their civil servants in the executive.

When every citizen elects representatives in state institutions, that is, they delegate their deputies to control social order. But they do not offer all of their rights to these representatives and become slaves. In fact, every citizen taking part in election transfers only small part of their rights to the state machinery for social management. Democracy and freedom is a noble right, no one wants to get rid of it. They transfer only a part enough for formation of public rights. Public rights are part of private rights. Public rights exist on the base of the existence of private rights. If there is no private rights, then public rights have no reason to exist because they are formed through concession of private rights. Therefore private rights are more diversified than public rights. Public rights are rights recognized by voting. So the citizens keep the judiciary power and do not transfer it to the executive representatives.

When judiciary institutions ensure the citizens' democracy and freedom, the executive power together with administrative machinery should be reduced. The process of the State's vanishing is the course of reducing administrative machinery and its power. That is decrease in public rights and increase in private rights. Thereby democracy is improved and freedom is expanded.

As a result of this, the judiciary power is the citizens' real power. The executive power is voluntarily contributed to maintain public order. To make the judiciary power fully effective, the system of judiciary organizations is established and its powerful tools are judging activities.

In judiciary reform, definition and concept of the judiciary power should be unified. Thereby judiciary organizations have effective working mechanism ■