

## Abstract

Vladimir Ilich Lenin is the founder of the first socialism nation in the world. According to the actual political and economical conditions of Russia at that time, he elaborated a series of theories and doctrines about the judicial power on the basis of inheriting and developing Marxist theory of nation and law. He had pushed the theory about the judicial power to another new stage. The creation and development of Lenin's thought about the judicature and the judicial practice after the October Revolution of Russia symbolized that two kinds of opposite theory and system about the judicial power of the capitalist and socialist. Because of the ideological inherent antagonism of capitalism and socialism, the political system and system of government are different between the socialist states and the capitalist states. Therefore, Lenin's thought about the socialist judicature is completely different with the judicial theories of the bourgeoisie scholars. Those are radically two kinds of different theoretical patterns and political doctrines.

Lenin's thoughts about the judicature were formed and developed in the long years of revolution and construction of the Soviet socialist legal system led by Lenin. The theories on building the political power of the socialist states including the theory of ultimate popular sovereignty, the system of democratic centralism, the principle of unity of legal system and the theory of supervision of state power compose the logical starting point of Lenin's

thoughts and theories about the judicature. On criticizing the judicial limitations of the bourgeois, Lenin expatiated a series of thought and ideas such as the judicial independence, the judicial equality, the judicial democracy, the supervision to the judicature and the judicial impartiality that embody the judicial civilization of mankind. Lenin's judicial ideas had ever made a directional function on how to construct the system of the court and the public prosecution. In light of these thought and ideas, Lenin made some conception of socialist judiciary system and applied them to the socialist judicature construction of Russian initial stage.

Lenin's thought about the judicature is an important component of his legal thoughts theory. It is the great theoretical achievements that Lenin led the Soviet's people to carry through the socialist revolution and the construction of socialism legal system. For the judicial system of socialism nation, Lenin thought that the judicial organ is produced, supervised by the organ of state power and is responsible for the organ of state power. For the composing and exertion of socialism judicial power, Lenin advocated that the judicial power is composed of the adjudicative power and the procuratorial power. The court and the procuratorate belong to the judicial organ. The court exerts the adjudicative power and the procuratorate exerts the procuratorial power. Lenin's conception concerning the judicial system of the socialism and the judicature property had brought an important, profound and complete influence on the judicial theories and the judicial system of not only the former Soviet Union and Eastern European states but also the People Republic of China in the early years.

Lenin's thought about the judicature is considered with certain limitation

today, however, as the founder of the socialist judicial system, Lenin's thought about the judiciary is theoretical achievements and practical production of socialist revolution and judicial construction in the initial stage. It was rational and scientific in those historical conditions. To learn Lenin's thought about the judiciary, we could not be divorced ourselves from the historical conditions then, could not rigidly comprehend the original intention of the author of Marxist classics, and could not make Lenin's thought about the judiciary and his theory of nation generalization and sacred. We should further emancipate our minds, change the concept and keep pace with the times to put the time meanings on Lenin's thought about the judiciary in order to instruct the socialist states to construct the judiciary and to consummate the judicial system of socialist states.

# 目 录

<b>第一章 导论</b>	/ 1
<b>第一节 列宁司法思想的研究概况</b>	/ 2
一、列宁司法思想的国外研究状况	/ 3
二、列宁司法思想的国内研究状况	/ 17
<b>第二节 列宁司法思想的研究内容和方法</b>	/ 27
一、列宁司法思想的研究内容	/ 27
二、列宁司法思想的研究方法	/ 30
<b>第三节 列宁司法思想研究的意义</b>	/ 37
一、列宁司法思想研究的理论意义	/ 38
二、列宁司法思想研究的实践意义	/ 45
<b>第二章 列宁司法思想演进的历史逻辑</b>	/ 56
<b>第一节 列宁司法思想演进的历史阶段</b>	/ 57
一、列宁早期对沙俄司法的批判	/ 57

二、资产阶级民主革命时期的批判与构想	/ 78
三、十月革命胜利后的司法建设与发展完善	/ 91
<b>第二节 列宁司法思想演进的内在逻辑</b>	/ 107
一、无产阶级摧毁资产阶级司法的历史使命	/ 108
二、建设与社会主义经济基础相适应的司法制度	/ 110
三、维护社会主义的政权关系	/ 112
<b>第三节 列宁司法思想演进的时代特质</b>	/ 117
一、列宁司法思想的批判性	/ 119
二、列宁司法思想的实践性	/ 120
三、列宁司法思想的创新性	/ 122
四、列宁司法思想的发展性	/ 124
<b>第三章 列宁司法思想的理论逻辑</b>	/ 126
<b>第一节 人民主权论</b>	/ 126
一、列宁人民主权论的理论渊源	/ 127
二、列宁人民主权论的内容与发展	/ 135
三、人民行使司法权：人民主权的体现	/ 137
<b>第二节 民主集中论</b>	/ 139
一、作为政党组织原则的民主集中制的提出	/ 140
二、民主集中制与苏维埃国家政权建设	/ 142
三、民主集中制在苏维埃司法中的体现	/ 148
<b>第三节 法制统一论</b>	/ 150
一、法律体系完善：法制统一的前提	/ 151
二、法制统一：司法统一的基础	/ 153

第四节 权力监督论	/ 155
一、人民监督权:实现人民主权的保证	/ 157
二、人民监督有助于防止权力的滥用	/ 160
第四章 列宁司法思想的核心内容	/ 167
第一节 司法独立	/ 167
一、司法隶属于行政:苏维埃政权初创时期的选择	/ 168
二、司法独立于行政:苏维埃政权机关职能分工的历史需要	/ 177
三、司法独立的应然与实然:社会主义三权关系的辩证分析	/ 181
第二节 司法平等	/ 184
一、人的自然权利的不平等与“同类人审判”	/ 185
二、公民在司法面前地位平等	/ 188
三、诉讼权利的平等	/ 192
第三节 司法民主	/ 197
一、民主制与司法民主	/ 198
二、人民陪审员制	/ 200
三、法官民主选举制	/ 206
四、公开审判	/ 209
第四节 司法监督	/ 216
一、执政党对司法的监督	/ 216
二、国家权力机关对司法的监督	/ 220
三、检察机关对司法审判的监督	/ 222
四、社会监督	/ 225
第五节 司法公正	/ 228

一、法律本身公正：司法实质公正之前提	/ 229
二、秉承正义理念依法司法	/ 234
三、罪责法定，严格执法	/ 244
<b>第五章 列宁司法思想的制度建构和实践</b>	<b>/ 249</b>
<b>第一节 司法在苏维埃国家政权机构中的地位</b>	<b>/ 250</b>
一、苏维埃司法体制的建构	/ 250
二、苏维埃司法体制的宪法实践	/ 254
<b>第二节 苏维埃法院制度的建构和实践</b>	<b>/ 259</b>
一、苏维埃法院的职能性质	/ 260
二、苏维埃法院的任务	/ 270
三、苏维埃法官的选任	/ 280
<b>第三节 苏维埃检察制度的构想和实践</b>	<b>/ 302</b>
一、苏维埃检察机关的性质	/ 302
二、苏维埃检察机关的领导体制	/ 308
三、苏维埃检察机关的职能任务	/ 315
<b>第六章 列宁司法思想的历史影响和现代价值</b>	<b>/ 334</b>
<b>第一节 列宁司法思想对苏联司法制度的影响</b>	<b>/ 335</b>
一、法官选举制思想的影响	/ 336
二、人民陪审制思想的影响	/ 338
三、法律监督思想的影响	/ 341
四、司法功能定位的影响	/ 345

<b>第二节 列宁司法思想对我国司法制度的影响</b>	/ 348
一、司法体制的借鉴与影响	/ 350
二、法院制度理念对新中国的影响	/ 352
三、检察制度理念与新中国检察制度的实践	/ 360
<b>第三节 列宁司法思想的时代价值</b>	/ 372
一、正确认识列宁司法思想的局限性与时代价值	/ 373
二、借鉴列宁司法思想服务现实	/ 376
<b>参考文献</b>	/ 379
<b>后 记</b>	/ 399