JUDICIAL INDEPENDENCE AND INDIVIDUAL LEGAL CASE SUPERVISION IN CHINA¹

—Be inspired by Urawa Mitsuko incident

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The necessity of the individual legal case supervision in China is a well-debated yet unconcluded topic. Urawa Mitsuko incident is a classic case of defending judicial independence and rejecting the individual legal case supervision in Japanese history. It caused people to concentrate on use of census right in judicial field and formed a consensus that, it should be restricted by many factors. The case has three inspirations to judicial independence of China: National People's Congress is the organ of supreme power, but it is not absolutely right for it to perform the individual legal case supervision, the surveillance of National People's Congress to Law Courts should not and must not be the real supervision to individual legal cases, allowing the judgement of right or wrong by National People's Congress will lead to the violation of the finality principle of judicature.

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INTRODUCTION

The relationship between judicial independence and the individual legal case supervision is one of the issues in China legal circle over a long time. The individual legal case supervision is provided as the supervision by local people's congresses or its Standing Committee at and above the county level supervision over execution towards the judicial department². The Article 71 of the constitution of the People's Republic of China says: "The National People's Congress and its Standing Committee may, when they

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² Cai Dingjian, *Case Supervision by the People's Congress and Its Reform*, SUPERVISION AND JUDICIAL JUSTICE 38 (Cai Dingjian ed., Law Press China 2005).

deem it to be necessary, appoint committees of inquiry into specific questions and adopt relevant resolutions in the light of their reports. All organs of state, public organizations and citizens concerned are obliged to supply the necessary information to those committees of inquiry when they conduct investigations.” The Article 31 of the law of the People’s Republic of China on the organization of local people’s congresses and people’s governments at different levels says: “Local people’s congresses at and above the county level can establish committee of inquiry in investigation of specific cases.”³ The individual legal case supervision stands on above and some other laws. According to the investigation of Cai Dingjian, the first individual legal case supervision is the supervision to case called “Three lawyers”⁴, a case occurred in Tai’an county of Liaoning province in 1984.

The Article 62 of the constitution of Japan says: “Each House may conduct investigations in relation to government, and may demand the presence and testimony of witnesses, and the production of records.” The Article 62 of the constitution of Japan is identical to the Article 71 of the constitution of China, each provides right for the organ of supreme power to investigate and supervise the judicial department. Nevertheless, there is already a final conclusion about whether the individual legal case supervision is necessary. Discussion of relationship between judicial independence and the individual legal case supervision occurred in former Japan provides some important inspirations to China. Urawa Mitsuko incident is an important incident in rejecting the individual legal case supervision and protecting judicial independence. Through the introduction and analyze of the Urawa Mitsuko incident, the article summarized its inspirations to judicial independence in current China.

I. SUMMARY OF URAWA MITSUKO INCIDENT

Urawa Mitsuko incident is considered an important event to protect judicial independence of Japan. The incident is not too complicated. Urawa

³ In addition to above articles, following articles also serve for the establishment of the inquiry panel of specific issues: the Article 38 of Organic Law of the National People’s Congress of the People’s Republic of China and the Article 38 of Law of the People’s Republic of China on Supervision by the Standing Committees of the People’s Congresses at All Levels.

⁴ Wang Baiyi, Wang Licheng and Wang Zhishuang, three lawyer of Tai’an county, are arrested by the People’s Procuratorate due to their effort to defend justice. And they petitioned the National People’s Congress. Then the Standing Committee of National People’s Congress gave a command, together with the assist of the Bureau for Complaints of the General Office of the Standing Committee and other related department, the case was finally solved. See Cai Dingjian, *Case Supervision by the People’s Congress and Its Reform*, SUPERVISION AND JUDICIAL JUSTICE 38 (Cai Dingjian ed., Law Press China 2005).

Mitsuko (30) who lived in Saitama Prefecture, Kita-Katsushika District, Yoshida village, had three daughters, but Katarisuke (34), the husband of Mitsuko, did not live with his wife and was addicted in gambling. He sold everything including house. Mitsuko thought she lost the love of her husband and was also under the great pressure of raising three children. At last, she lost every hope and decided to die with her children. April 6, 1948, evening, Mitsuko boiled fish with rodenticide and feed it to her children, but the poison did not take effect instantly and children fall asleep. After a while, Mitsuko thought children will suffer less if she kill them right away, so she used a rope and pinched her three daughter to death. Mitsuko couldn't kill herself. She gave herself up. On July 2 of the same year, Urawa District Court sentenced her to take three years of imprisonment and three years with a reprieve, the reason was "there are some points that will extenuate her rime such as her motive"⁵. Responsible prosecutor also agreed. Without any appeal, the case was confirmed and Urawa Mitsuko was released. Resulting a murderer of three children doesn't receiving any punishment.

For this case, the Legal Committee of the House of Councillors called Urawa Mitsuko, her former husband and responsible prosecutors as witnesses, did an investigation and organize the result of the investigation into a report on March 30, 1949, stated the dissatisfaction to the finding of fact of the judge and prosecutor, argued the severity of the sentence was far from enough and it is improper. The contents of the report are as below: First, in finding of fact, the severity of the living, which was stated as a motive of crime, is not clear, and even if there was a great pressure in living, half of the reason came from Mitsuko herself. In this point, the effort of the judge to clarify the fact is insufficient. Was her husband really unreliable? Did she talk with her family? Why she didn't use public facilities to get help? All these are questionable. The judge that stands on the fact that, this it was an incident that mother and children die together, but there can be possibility that Mitsuko was planned to kill only her children. Second, though the motive of the crime was love of parent, there is no reason to lighten the punishment. Third, barbarous and programmatic of the killing should be paid more attention.

II. CENSUS RIGHTS AND INCIDENT INVESTIGATION

The Legal Committee of the House of Councillors submitted the report based on the "Census rights", the Article 62 of the Constitution of Japan. May 16, all judges of the Supreme Court voted for submitting the opinion

⁵ *The Issue of Urawa Mitsuko Incident*, MAINICHI SHIMBUN (MAINICHI DAILY), May 20, 1949.

paper to the House of Councillors President on May 20. The summary of the contents is below⁶: First, Census rights, defined by the Article 62 of the Constitution of Japan, are owned by the Diet and should only be wielded with the purpose to collect necessary materials in the execution of the legislative authority and the examination of budget. Second, the jurisdiction is under absolute control of the court, and any action to disturb or interfere the execution of the jurisdiction will not be allowed in Constitution. Third, criticize or evaluate the judge of a specific case by the Legal Committee of the House of Councillors is offence to judicial independence and is exceeding the right of investigation protected by Constitution.

May 24, the Legal Committee of the House of Councillors replied the opinions⁷: First, the Supreme Court is overstepping its authority in issue opinion about the behavior of the cabinet and Diet related to Constitution, not to judgment of specific case. Second, the Diet is supreme department of the national rights and the only legislature; the Census rights are independent functions to investigate and criticize any national affair, which is a branch of national rights. Third, judicial independence means that, the judge will not be disturbed or interfered in making judgment of specific cases, does not mean the judgment will be free from any criticism. The investigation and criticizing by Census rights has positive effect to checks and maintain the balances of the rights of nation, thus the investigation of the case which has already be judged is not any offence to judicial independence.

Argument between the Legal Committee of the House of Councillors and the Supreme Court, the theme “auxiliary power theory versus independent power theory” led to huge discussion in academic and press circles.

III. STATEMENTS OF ACADEMIC CIRCLES AND PRESS CIRCLES

Tokyo Asahi Shimbun (*Tokyo Asahi Daily*) published a thesis titled “the limits of census rights” on May 22, stated that, Census right are related to all part of the legislation and the administration, but the existence of judicial independence restricted the effect to judgment, a pure judicial function. So the Legal Committee of the House of Councillors is overstepping its rights to investigate and interfere specific case and threaten judicial independence. Yomiuri Shimbun (*Yomiuri Daily*) also published editorial on May 27. The editorial states that, Urawa incident is difficult to

⁶ Ryokichi Arikura, *Census Rights of the Diet and Judicial Independence*, WASEDA LAW REVIEW 135 (November 25, 1949).

⁷ *Ibid.*

judge in Constitution interpretation, but the House of Councillors went too far in investigation. May 28, *Mainichi Shimbun* (*Mainichi Daily*) proposed its idea in article: it is not good to create an image that the final court is the Legal Committee of the House of Councillors instead of the Supreme Court, but it also will smother new system imported to operate the Diet if defining the census right as “an auxiliary function just for collect of the material”. The problem appears when investigation becomes interference, it is proper to criticize the over-action of the House of Councillors. From above, it is clear that, the press circles supports but not all the assertions of the Supreme Court.

Next, let's switch attention to the academic circles. Toshiyoshi Miyazawa, professor of Tokyo University, published thesis “Census rights of the Diet and Judicial Independence”⁸. It says: in a narrow sense, the judicature, judging of any jural dispute, is the function of court in principle, and the authority to the Diet or each House can not affect it. It means that, the Diet and each House cannot directly judge any jural dispute, and they also can not offend judicial independence by Census rights or any other actions that are possibly disturb the judge to make judgment purely and independently. So the Constitution do not allow to investigate the case in court for the same purpose with court, but the investigation of case that is not related to court or case that has already been judged is not regarded as an action to offend judicial independence. Professor Miyazawa also stated in later forum that, the Committee of the House of Councillors threatened the jurisdiction by criticizing the behavior of each judge in court and blaming the affirming of facts and the severity of the punishment⁹.

Yasukura Suzuki, a constitution scholar, published his article on *Yomiuri Shimbun* (*Yomiuri Daily*) on May 27: Census rights are independent rights stands on constitution and their function are not limited to assist the operation of the legislative authority and the examination of budget. As the supreme department of the national power in popular sovereignty constitution, the Diet can and should publish its opinion to national affairs, which is essential to modern democracy. As long as the Legal Committee of the House of Councillors does not assert the judicial effect of its comment, it is not an offence. Jiro Tanaka, professor of Tokyo University, showed opposite attitude towards Mr. Suzuki: the only function of the Census rights is to assist the Diet's fully operation, and the rights are limited not to affect the judgment of specific case. Besides, reinvestigate case that has been judged is improper.

Shigemitsu Dando, professor of Tokyo University, stated his view in

⁸ HORITSU JIHO, 21(3) LAW JOURNAL 35 (1949).

⁹ TOKYO ASAHI SHIMBUN (TOKYO ASAHI DAILY), (May 29, 1949).

his thesis “Census rights of the Diet”¹⁰: take the Census rights in America as example, the function of Census rights is to support other authority in a range of supported authority, and the restrain function to judiciary should be limited to criticism related to legislation and budget, therefore the statement which claims that, the legislature has right to criticize the judgment is unacceptable. That is to say, the Diet cannot investigate cases in court with purpose to interfere the judgment, and it also can not criticize any case that has been judged, whether by procedural supervision or real supervision. Even if the Census right is permitted to interfere judiciary, it still cannot investigate specific cases in order to protect judicial independence.

The overview of above statements is showing the attitude of the academic circles: through the degree differs, the great majority of them are supportive to the Supreme Court.

Now, it's widely accepted that, the exertion of the Census rights is limited by numbers of constraints. Typical prohibited terms are as below:

First, to avoid improper interference to jurisdiction, the Diet is not allowed to confirm facts and drawn conclusion from them¹¹.

Second, the purpose of investigation should limited to support of the operation of the Diet's power defined by constitution, such as administrative supervision and examination of budget¹².

Third, investigation of any under way case and the related litigation command of judge is prohibited¹³.

Urawa Mitsuko incident is a typical case occurred when Japan start to adopt the separation of the powers. And it is a case that caused fierce objection to political involvement to jurisdiction of the Diet. It solved the problem between judicial independence and the Census right of the Diet, and achieved brilliance to protect judicial independence.

IV. PRESENT CONDITION OF LEGISLATIVE SUPERVISION OF COURT CASES IN CHINA

The individual legal case supervision of judiciary by the people's Congress started from late 1980s, the beginning was the corresponding of the local People's Congress towards petitioned incident (*shangfang*). Earliest stipulation of the individual legal case supervision in local method

¹⁰ HOSO JIHO, 1(5) LAWYERS ASSOCIATION JOURNAL 72 (1949).

¹¹ HASEBE YASUO, CONSTITUTIONAL LAW 354 (2th ed., Shinsei-Sha 2001); URABE NORIHO, KENPOGAKU KYOSHITSU (STUDIES ON THE CONSTITUTION) 329 (Nippon Hyoron Sha 2001).

¹² ASHIBE NOBUYOSHI, KENPOU 283 (5th ed., Iwanami Shoten 1998).

¹³ ASHIBE NOBUYOSHI, KENPOU 283 (5th ed., Iwanami Shoten 1998); NONAKA T., NAKAMURA M., TAKAHASHI K. & TAKAMI K., CONSTITUTIONAL LAW II 225 (3rd ed., Yuhikaku 2005).

was defined in Liaoning Province, and currently each region of China has its own regulations.

From the beginning of the individual legal case supervision, the legitimacy of the individual legal case supervision by People's Congress was discussed many times. Cai Dingjian divided people's view into supportive one and rejective one¹⁴: if the People's Congress has rights to supervise courts¹⁵, it will also be able to supervise specific cases. Besides, the corruption of judiciary is spreading in whole China¹⁶, and the frustration of people are also accumulating. Under such condition, the individual legal case supervision should even strengthened. Increasing petition incidents that complain the corruption can't be ignored. Above is the most claimed reason of supporters. On the other hand, protesters claim that, the individual legal case supervision to judiciary by People's Congress are not standing on any proper jural basis and is threatening judicial independence. Many privies of the petition incidents are representatives of the People's Congress themselves, so the supervision of their own case will induce another corruption. The individual legal case supervision by People's Congress is severely threatening the effectiveness of courts, and is the menace of the public stability.

According to Jiang Minan, professor of Beijing University, the individual legal case supervision by People's Congress can be divided into three types¹⁷: First, the individual legal case supervision to protect public advantages from corruption of judiciary. Second, the individual legal case supervision with purpose to get profit, which is often the case of representative of People's Congress. Third, the individual legal case supervision with purpose to protect the local benefit, which occurs when the local representative use unlawfully alter the judge unfavorable to his or her administrative area.

The first type is also the direct cause of the individual legal case supervision. According to the statistic published by petition office¹⁸ of Shanxi on July 16, 2007, 24.4 percent of 3,112 petition cases are regal disputes, which are also majority of petition case, the corruption of the

¹⁴ Cai Dingjian, *Case Supervision by the People's Congress and Its Reform*, SUPERVISION AND JUDICIAL JUSTICE 39 (Cai Dingjian ed., Law Press China 2005).

¹⁵ See, the Article 3, the constitution of the People's Republic of China.

¹⁶ Below is popular words about phenomenon that, courts are defy divine and have contempt for the law: taking bribes from both the plaintiff and the defendant (chi wan yuangao chi beigao).

¹⁷ Li Kefu & Wang Yilin, *How to Regulate the Individual Case Supervision of Representatives of People's Congress*, XIAOXIANG CHENBAO (XIAOXIANG DAILY), July 22, 2014, at A02.

¹⁸ Petition office and the bureau of petition office are departments to correspond to advices, suggestions and complaints raised by public in form of e-mails, faxes or telephone calls and visit.

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jurisdiction are most common cause of petition cases¹⁹. Another petition office in middle China published a statistic, that shows from January to July in 2012, 28.2 percent (626 cases•persons) of the petition case that were brought to Beijing are related to regal disputes, and the number of petition cases•persons brought to provincial capital is 1,109²⁰. There are many elements to restrict the corruption of the judiciary: there is supervision from higher level courts, examples are second trial, direct retrial (*zhiling zaishen*)²¹ and bring up (*tishen*)²². There is supervision of lower level from privies, such as: appeal. Before the case was judged, there is supervision from prosecutors, for example, accusation. After the case was judged, the supervision of People's Congress of the same level, such as: the People's Congress discussing the annual work report from courts every year, question (*zhixun*), council. From inside, the director can supervise by submitting proposals about the court's work. From outside, there is supervision by public opinion. If the corruption still occurs frequently under those rigorous supervision systems, it doesn't help any to set up another supervision of individual cases. Because the ineffectiveness of courts to prevent the false accusation incidents, the petition from victims and their family to People's Congress and Standing Committee are increasing, to correspond to those petitions, the individual legal case supervision appeared.

The second type is the individual legal case supervision by privies. The individual legal case supervision is described as "abnormal supervision" by Southern Weekly²³. According to the relevant person of the "Lianggao"²⁴, privies of many cases that supervised by representative of the People's Congress are representatives themselves. And most of those privies are business owners, and are involved in civil litigation. If the representatives are not satisfied about the judgment, they will create difficulties to obstruct courts, "no matter how hard courts try, the representatives won't be satisfied". The relevant person said. According to the real experience of an anonymous judge of the Supreme Court, a representative was unsatisfied

¹⁹ Li Qiang, *Petition Office of Shanxi Province: The Corruption of Jurisdiction is the Major Reason of Public Petitions*, SHANXI RIBAO (SHANXI DAILY), July 17, 2007. Available at <http://politics.people.com.cn/GB/14562/5993749.html> (last visited February 28, 2015).

²⁰ Hu Jinwu & Lai Xin, *Enhance Credibility of the Jurisdiction: Decipher "the Petition than the Law"*, CHINA COMMENT (BANYUETAN), April 26, 2014. Available at <http://www.banyuetan.org/chcontent/sz/szgc/2014425/100117.html> (last visited February 26, 2015).

²¹ To judge a former case by the command from higher level court.

²² To judge a case that is being judged or has been judged in lower level court by higher level court.

²³ Zhao Lei, *During "Lianggao": Between the Individual Case Supervision and Judicial Authority*, NANFANG ZHOUMO (SOUTHERN WEEKLY), March 18, 2010. Available at <http://www.infzm.com/content/42713> (last visited April 20, 2015).

²⁴ The abbreviation of the Supreme People's Court and the Supreme People's Procuratorate.

with the judgment and threatened the judge that, if the Supreme Court cannot come up with a better explanation, the representative will associate other representatives to make dissenting vote for the work report. The judge recalled: “the persuasion of the representative lasted till the night before the discussion of the annual work report”.

From above, it's clear that, if the courts are under the great pressure created by privies, the representatives of People's Congress, the corruption will occur.

The third type is mainly for protection of local profit. Courts of China are all set according to the administrative levels. The administrations of certain level are always connected to the People's Congress and the court of the same level. As a result, every court is controlled by its corresponding People's Congress, and the members, which are also elected by the People's Congress and under supervision of the People's Congress, have duty to report their work to the People's Congress. The budgets of the court are calculated from the public finance of the same-level region. In a word, courts are controlled by administrative department of same level. Therefore the individual legal case supervision became a tool to benefit the local finance.

Southern Weekly published a typical case that representatives of People's Congress intruded judicial independence using the individual legal case supervision. In eight years, the case was judged by three levels of courts and had four judgments, and became inexecutable in the end²⁵. The seemingly usual case was judged by two levels courts of Henan province and the original judgment was changed by the Supreme Court for two times, and the final judgment from the Supreme Court was inexecutable in the Henan province. Where is the problem of this case? According to the article of the Southern Weekly, after the first judgment of the Supreme Court, representatives of People's Congress of Henan Province defended the privy who lost in court and are rejected to the judgment, and they raised a proposal to subvert the judgment. The privy is also a representative of the local People's Congress, and had many supporter around in the local People's Congress. The opponent recalled sadly: “If I were aware of the come-off, I would never sue the representative no matter how many humiliation I have suffered.” The action of the representatives to reject the judgment of the Supreme Court is doing a great harm to the order of the law.

²⁵ Shou Beibei, *Three Levels of Courts, Four Judgments, Eight Years of Lawsuit, a Piece of Blank Paper*, NANFANG ZHOUMO (SOUTHERN WEEKLY), June 5, 1998.

V. BE INSPIRED BY URAWA MITSUKO INCIDENT

In China, most people believe that, the individual legal case supervision is right because the representatives of People's Congress are elected from public, and the People's Congress is the organ of supreme power, so the individual legal case supervision is achieving the national sovereignty and the democratization of the jurisdiction. This theory is assemble to the "independent power theory" appeared in discussion of the Urawa Mitsuko incident. In Urawa Mitsuko incident, some people state that, the Census rights belongs to the Diet, the organ of supreme power, and are rights that stand alone identical to the legislative authority and the examination of budget. And as supreme power and the only legislation department, the Diet owns the Census rights to integrate and investigate the national affairs. But it can be inferred that, the "independent power theory" is not supported in academic circles and press circles.

Indeed, the member of courts are elected by the People's Congress and are reflecting the mind of public, so the judicial system has democratic legitimacy of achieving the popular sovereignty. Popular sovereignty does not mean that, public should take part in every tiny cases. Some scholars claim the election of Lay judge system as the basis of the legitimacy of the individual legal case supervision, but it is wrong even if it seems right.

Urawa Mitsuko incident showed three inspirations about the execution of the individual legal case supervision. First, the individual legal case supervision should be procedural supervision, not real supervision. People's Congress can supervise the problem of procedures, but it can't interfere the application of the law and the specific punishment. The objects of the People's Congress' supervision are the corruption of the judges, not the content of judgment or the confirmation of facts. People's Congress should advance the procedures of from the inside of the courts, and protect the independence and conformability of the application of the law and confirmation of facts, thus achieving the justice of the jurisdiction. It's unacceptable that, the People's Congress investigate the case, evaluate the activity of courts and command the judgment. Even facing the corruption of the judges, People's Congress is not supposed to investigate by itself; it should rather ask for other inspection authorities for help.

Second inspiration is that, the individual legal case supervision cannot prevent the corruption of the jurisdiction. As mentioned above, the main purpose of the individual legal case supervision is to prevent the corruption of the jurisdiction. But the clues in the individual legal case supervision are mostly the petition from victims and the command from upper level

department, and it's difficult to operate proper supervision leaning on those clues. As a result, the supervision for correction will become the cause of new mistake and injustice.

The individual legal case supervision prevented some corruption of the jurisdiction, consequently people who want to prevent the corruption of the jurisdiction will send petition to the People's Congress, thus the power of the People's Congress is strengthened, and the power of judicial department are weakened. The judgment of cases is repeated due to the individual legal case supervision, and it takes too long time to get to final judgment. Privies will ask representatives of People's Congress for help after the judge is over in order to benefit from it. The supervision will wreck the stability of the social order, and boost people's disbelief towards the order of law. In the above mentioned case of Henan, the Supreme Court changed the original verdict for twice, but the non-interference of the local court caused the case's judgment of Supreme Court to be inexecutable. It's fair for public to question the effect of the individual legal case supervision.

Third inspiration is to prohibit the investigation of the cases that are being judged. The core of judicial independence is the independence of the judges, disturbance of the independent judgment by judges should not be allowed. If outsiders of courts have rights to criticize and command the judges, majority of judges will compromise the judgment, and the independence of the judges will be damaged. The accountability system of false accusation case is also accounts for the obedience of the judges to supervisors. From the fear of producing false accusation cases, judges will report every indeterminate cases to its supervisors and follow the commands of them. If the command and criticism of the People's Congress are conceded, courts will lose independence in making judgments by law. As a result, courts will only be able to judge cases following the private files, commands, suggestion and implication from supervisors. It not only intrudes judicial independence, and will turn the relationship between People's Congress and courts from supervisor and supervised into commander and follower.

In addition, attention should be paid to two more points: First, the individual legal case supervision is intruding the procedure of jurisdiction. Theoretically, enough investigation, public hearings and deliberative assemblies are indispensable in supervision of cases. However, the People's Congress is not able to construct a new system to collect clues and arguments from privies. Letting People's Congress to decide whether judgments are appropriate intrudes the finality of courts. Finality means that, courts have the last say in judging cases by law, in other word, the judgment

of courts is the only and absolute judgment that does not affected by any other department. “We are not final because we are infallible, but we are infallible only because we are final”.²⁶ Robert Jackson, the former justice of the United States Supreme Court, stated. The core of court’s power is the finality of their judgments, not the accurateness. Courts are the ultimate safeguard in solving the legal disputes, protecting the human rights and achieving the social justice. Utilization of courts means other methods are already tried and abandoned, and cases in law process are insulated from any outside factors including the Regime Party, the legislature and administrations. Cases that have received final judgment are fixed and unchangeable, and any other power cannot re-judge the case or change the contents of the judgment. Possibility of improper judgment still remains, but it’s the necessary cost of persistence of court’s finality. Because the finality of courts is undeniable, the problem of improper judgment should depend on the revision of system and the reform of the jurisdiction. Take Urawa Mitsuko incident as an example, through majority of public admit the punishment should be more severe, the finality of judgment is absolute and the judgment is unchangeable.

In Urawa Mitsuko incident, under the Census rights, the Legal Committee of the House of Councillors questioned the judgment of Urawa Mitsuko incident by release a report to criticize the contents of the judgment. Such a behavior of the Legal Committee corresponds to the individual legal case supervision of China. Instead of obedience, the Supreme Court of Japan firmly rejected the supervision. The Supreme Court is an organ to guard the power of nation’s jurisdiction, and is the protector who inquisite other local courts and shield the disturbance from outside. Above are the inspirations from Urawa Mitsuko incident to current China. When other public power start to intrude judicial independence, the first one to raise up against the power should be the Supreme Court. In this view, there is still a long way to go until the Supreme Court of China to fight against the People’s Congress’ offence to judicial independence by the individual legal case supervision.

CONCLUSION

Through reviewing the history of important Japanese Judicial case “Urawa Mitsuko incident”, the analysis is made on the impact on the present and the effect caused by the final judgement, which involved the relationship between Census Right and Individual Legal Case Supervision,

²⁶ Brown v. Allen, 344 U.S. 443, 540 (1953).

in order to claim that, China's National People's Congress should accept certain restrictions to perform the supervision of the specific case of the judiciary: the individual legal case supervision should be procedural supervision rather than real supervision, the purpose of the supervision shall not be related to judicature, and prohibition of any investigation into the cases that are being judged.

The individual legal case supervision will not prevent the corruption of the jurisdiction, and it also does not follow the proper procedure of jurisdiction, and judging whether judgments are appropriate by People's Congress intrudes the finality of courts. To protect the independence and conformability of the application of the law and confirmation of facts, People's Congress should advance the judicial procedures from the inside of the courts, thus achieving the justice of the jurisdiction. It's unacceptable for the People's Congress to investigate the case, evaluate the activity of courts and command the judgment. By inspecting the major event of counteracting political power to protect the judicial independence in Japan, China can learn a valuable lesson to correct the relationship between judicial independence and individual legal case supervision in China.