

Analysis on the construction mode of contemporary Chinese legal system

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Abstract: Since the reform and opening up, China's economy has developed rapidly, and it has also created more and more social problems. In order to maintain social stability and promote harmonious development, we must improve the corresponding legal system. Unlike the Western legal system, China's legal system is based on social exploration and is strongly controlled by the government, with certain characteristics. The article briefly analyzes the problems existing in the current legal system and the model of constructing the legal system, and proposes corresponding strategies for the construction of the legal system in the new era.

1. Introduction

With the continuous development of China's economy, new challenges have been raised for the construction of the legal system. Compared with the Western legal system, China's legal construction started relatively late, and gradually began to establish a modern legal system after the reform and opening up. China is a socialist country and is different from Western capitalism. Legal construction cannot simply apply to Western countries and must have its own characteristics to promote the stable development of the socialist economy.

2. The status quo of China's legal system

China is a socialist country and is taking a socialist road with Chinese characteristics. Therefore, in the process of legislation, the Western legal system cannot be applied, and there is no stereotyped legal model of any country in the world for us to learn. Therefore, through continuous exploration, we should explore our own legal system, discover problems and accumulate experience in constant practice. The current legal system has the following characteristics.

2.1. Short hours

In 1949, on the eve of the founding of new China, the CPPCC replaced the Chinese Constitution with the "Common Programme". It was not until 1954 that a sound constitutional framework was established. After the reform and opening up, China began to make up for the legal gap^[1]. In 1997, China proposed the formation plan of a legal system. By 2011, China's legal system was formally formed. Compared with the Western legal system, China's legal system construction time is very short, so it is not perfect in some aspects, and it is necessary to constantly add some new content according to the changes of the times.

2.2. More contents

China's legal system has developed very rapidly. Compared with the short period of construction time, the content of the legal system is very rich. The legal system covers all aspects of society. These contents are gradual and are based on the characteristics of social development in our country. The legal system includes more than 200 valid laws^[2]. The contents include administrative law, criminal law, litigation law, economic law and so on. With the continuous improvement of China's legislative technology, the legal system construction work has become more and more scientific and reasonable.

2.3. Special

China's legal system has distinct socialist characteristics and is formulated according to national conditions. The law construction has been perfected in continuous exploration and has achieved great success. The law construction takes the form of a straightforward approach and has a high degree of openness. Through the hearing, the form of the argumentation, the draft of the legal opinion is demonstrated, and the opinions of the broad masses of the people are fully absorbed during the construction. Among all socialist countries, China's legal system has the highest level of development. But as a socialist country, our legal system cannot be learned by foreign countries. Everything needs to be based on independent exploration.

3. Problems in China's legal system

3.1. Poor coordination between different levels of law

In the system of sharing legislative power in China, all provinces, municipalities and autonomous regions can formulate corresponding rules and regulations according to local actual conditions. Due to the large differences in the actual conditions in various places, the laws and regulations formulated have also been inconsistent. There are conflicts between central and local laws, and there are contradictions in different regions. Due to the inconsistency of the legal content, many contradictions will arise during actual implementation. For example, the same type of product will be subject to different standards set by multiple departments. There are crossovers and even contradictions in these standards. While, some products do not have a hierarchy standard and lack the necessary specifications. The uncoordinated content of the provisions in this kind of legislative system has affected the efficiency of law enforcement to a certain extent, and also challenged the authority of the law^[3].

3.2. There are differences in the procedures of legislation

The formulation of laws and regulations in China is divided into two categories, one is the legislative scope activity, and the other is the designated activity belonging to the standard category. In the legislative scope activities, the designation of laws and regulations is in line with the rules and regulations of the "Legislation". Some administrative departments will make reference to the legislative development process in China, and carry out activities such as project establishment, research, and consultation^[4]. In the setting activities of standard category, there are mandatory standards. There is no difference in procedural and original standards, and the process is similar to the legislative category. Comparing the legislative scope activities with the standard category activities, the set goals and concerns of the two are inconsistent, and there are major differences, which have hindered the process of constructing the legal system in China.

4. China's legislative trial mode

4.1. Prudent legislative mechanism

China's legal system has the characteristics of rapid development and wide coverage. In the process of legal construction, China's legal system is not sloppy, and it is taken a rigorous attitude. China's legislative mechanism has very strict requirements for the implementation of the new law, which is embodied in the strict trial before the implementation of the new law. The attitude of the legislation is to build a framework, fill in the content according to the guess, select the location, and conduct the trial. After repeated trials and improvements, it will be officially introduced. This prudent legislative mechanism largely guarantees the fairness and justice of the law, helps maintain social stability, and promotes the rapid development of the economy.

4.2. The prudent experimental mechanism

The new law will be trialed before it is officially implemented. There are two ways to do this kind of trial, one is to launch trials across the country, and the other is to conduct trials in a specific area.

4.2.1. Legislative trials

For some issues involving the whole society, such as traffic regulations, this kind of problem will be involved in the whole society. The state will first conduct trial legislation and choose a trial period. During the trial period, there will be a “trial method” in the documents issued by the government. After the trial, the government will improve the flaws or loopholes in the trial law before it will be formally implemented in the society. When there is a big contradiction between the trial method and the actual social situation, the state can consider these trial methods and, if necessary, abolish the trial method. This kind of trial legislation is a buffer before the new law is released. It can effectively ease the time for the people to adapt to the new law, help reduce the breeding of social contradictions, and maintain the dignity and execution of the law^[5]. At the same time, there are certain flaws in this kind of legislative trial. Sometimes, the trial period of the trial method is not clear, the legal name is uncertain, or in the period of the trial, the trial law is equivalent to the formal law. When there are too many such trials in society, it will affect the stability of society and cause inconvenience to people's lives.

4.2.2. Legislative pilot

Compared with the scope of legislative trials in the whole society, we can also choose the way of legislative pilot. The legislative pilot has many advantages. The selected area is fixed and has less influence on society. For example, when the state reforms education and medical care, it usually chooses to conduct pilot projects in a certain province or city. The way to legislative pilot is to start from a pilot, so as to gradually achieve point-to-face coverage. The new law is implemented in a pilot, the government can observe and monitor it well, and find out the shortcomings and contradictions in time. The government can also adjust the relevant rules in the law according to the feedback of the masses, and it is more convenient in terms of information sorting, transmission and notification. The legislative pilot is accumulating experience for legislation. In the future, when the law is fully implemented, it will calmly face social problems. and will improve the efficiency of legislation. The important feature of the legislative pilot is that the scope of influence is small. Even if the pilot of the new law fails, it will not cause too much riots in society.

4.3. The prudent law enforcement model

Our country's laws have been established and improved in continuous trials and repeated experiments, with a rigorous attitude. The legal system has very distinctive Chinese characteristics and accumulates experience in constant practice. The government gradually established a complete legal system through the trial and pilot of the whole society. Legal law has become a legal system of our country after a continuous improvement and revision.

5. The construction mode of China's legal system

Since the reform and opening up, China's daily activities have been carried out in the legal system stipulated in the “Constitution”, and major achievements have been made in legal construction. With the leadership of the party, China's legal system is based on the Constitution and has Chinese characteristics^[6]. With the rapid development and reform of the socialist economy in recent years, it is necessary to constantly improve and explore the law. China's legal system is formulated to meet the fundamental interests of the majority and to ensure social equity. If there is unfairness in the legislation, it will cause a series of problems for society. Therefore, it is necessary to take appropriate measures to regulate the legal construction work.

5.1. Scientific legal theory to test legal practice

Practice is the sole criterion for testing truth. Only through specific practice can we correct and improve the theory. Legal practice is based on the theoretical system. If the new legal system cannot withstand the test of practice, the theory is unscientific or one-sided. Therefore, it is necessary to use scientific legal theory to guide legal practice to test the deficiencies in the current legal system. In the process of law enforcement, the law should be tested in real time to avoid blindness in the practice of law. Before every law in our country is practiced, we must first conduct a scientific argument. Through legal theory test, find out the shortcomings and loopholes, and modify them. This legal system theory tests the legal practice and can perfect and standardize the law.

5.2. Legal trial mechanism guidance

If we want to guarantee the scientific nature of the legal trial mechanism, we must formulate a comprehensive evaluation procedure and make a scientific assessment of the proposed scheme. During the trial of the new law, problems should be corrected in a timely manner and the experience should be summarized. In addition, the government must establish a complete supervision system to ensure that the legal trial mechanism can operate stably. Through the scientific evaluation system, a reasonable assessment of the trial laws and regulations is made to verify whether the new law meets the requirements of the legal system construction, to promote the continuous improvement of China's legal system^[7].

5.3. Take experiment-control mode

The construction of our legal system is influenced by traditional culture and seeks truth through continuous practice. During the implementation of the law, the government played a leading role in control and had a decisive voice in the law. In the process of legislation, local regulations are allowed to be involved. In order to achieve overall control and make the socialist legalization develop smoothly, a corresponding baseline will be set in the process of formulating regulations. When the law and the scope of control are separated, the trial method will be stopped. This experiment-control mode enables selective control.

6. Conclusion

In summary, due to the special social nature of our country, the legal system also has its own characteristics. The improvement of the legal system is based on the continuous exploration and summarization of historical experience. The rule of law in China is relatively fast, and the government plays a leading role in legal construction. The legislative model adopts the form of legislative trials and legislative pilots, which guarantees the fairness of the law to a certain extent and provides a buffer time for people to accept the law. At the same time, the trial method also has some drawbacks, which need to be further improved. The construction of China's legal system is still a long way and requires more efforts.

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