

# Research on the Externality of the Establishment and Implementation of Economic Law Based on Sociology of Law

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**Abstract:** In recent years, China's economic development has been rapid. As the fundamental law to regulate and control the economy, economic law plays an irreplaceable role in market economic activities. In the process of its formulation and implementation, it will inevitably bring additional costs and benefits to others, which is the externality of economic law. The internalization of the externality of economic law can be carried out from two aspects: the formulation and implementation of economic law, that is, from the public and private subjects of economic subjects. By perfecting the economic system to protect the legitimate rights and interests of private entities, the implementation of economic law is more in line with social needs. Based on sociology of law, this paper explores the externalities of economic law, including its manifestations, root causes, and internalization measures, to provide a new theoretical perspective for the relevant authorities to formulate economic law norms that are fair and improve the implementation system of economic law.

## 1. Introduction

The implementation of economic law refers to the activities of the subject of economic law to realize the economic legal norms. That is to say, the subject of economic law implements the norms of economic law into social reality and transforms the static norms of economic law into dynamic norms of economic law [1]. Activate the social adjustment function of the economic law norms in order to achieve the predetermined economic law objectives. There are significant external effects in the formulation and implementation of economic law. In the process of its formulation and implementation, it will inevitably bring additional costs and benefits to others, which is the externality of economic law [2]. It includes the authorization of state organs according to economic laws and regulations, and the strict management of social and economic activities in accordance with the relevant provisions of economic laws and regulations [3]. The cost of production for a single manufacturer depends on both the size of the industry and the size of each vendor. Although the economy has developed rapidly, it has achieved outstanding results [4]. However, the development of various social undertakings has lagged behind, and various social problems have become increasingly prominent. Social security issues, differences between the rich and the poor, etc. exist in large numbers. Not only has the threat of social crises increased, but it has also seriously hampered economic development.

If the economy and society cannot coordinate development, there may be fierce social conflicts that restrict and hinder the construction of a harmonious society. Only through the implementation of economic law can the requirements of legal norms be translated into people's behavior [5]. Economic law and social law are different. Social law is not the ultimate way to develop economic law. With the deep research of the academic community on this issue, it also prompted us to rethink [6]. The externalities of economic law and the shadow of economic law have something in common. It refers to the influence of the formulation and implementation activities of economic law on the interests of third parties not related to this activity. Economic man often promotes the interests of society when he pursues his own interests. This involves the issue of positive externalities. On the one hand, the externality of economic law can not be effectively overcome. On the other hand, it is difficult to highlight the value of economic law and its important position in contemporary law. This paper discusses the externality of economic law, including its manifestation, origin and

internalization measures [7]. It provides a new theoretical perspective for the relevant organs to formulate economic law norms that conform to justice and improve the implementation system of economic law.

## **2. External Analysis of the Implementation of Economic Law**

Externalities are everywhere. As long as externalities exist, resource allocation is not effective. The externality of the implementation of economic law refers to the externality produced by the actors in the concrete application and Realization of economic law. The influence of externality on tort law is to change the principle of liability for negligence to the principle of strict liability in the field of tort law. Only when the aggrieved party has intentional negligence in the occurrence of damage, will he be liable. If the aggrieved party does not have intentional negligence, he will not be liable according to law. Through the analysis of the externalities of economic law, we can find that externalities may exist in most areas of law. Non-competitive analysis, which mainly explains the externalities of the environment. The environment is a public good, and the main feature of public goods is non-competitive. This means that the consumption of an item by an individual does not prevent others from consuming the item. For economic law, scholars basically recognize that it is the state's law of moderate intervention in the economy [8]. From the perspective of the law that regulates the social norms of social relations through the allocation of rights and obligations, externality is not a process but a result. It is the imbalance of interests caused by the unequal rights and obligations between economic entities.

The externality of economic law formulation refers to the externalities generated by the legislature in the process of formulating, modifying and abolishing economic law. For the exploration of social law, the positioning of different periods and different countries has certain reference significance, but its role should not be over-reliant. The public interest rooted in economic law has the uncertainty and economy of the beneficiaries. The public interest of economic law has the characteristics of uncertainty and economy of the beneficiaries. The principle of fault liability is compatible with the underdeveloped market economy conditions. Under such economic conditions, there are no significant externalities in economic activities. The externality of the implementation of economic law is embodied in the externality of the economic subject in the process of economic activities, including the implementation of public law and private law. In this great social change, the social structure has been divided, showing a complex social picture, which has led to the birth of economic law and social law. The economic nature of public interest refers to the protection of public interest by economic law in order to achieve economic justice.

The above characteristics of public interest in economic law have become one of the root causes of the externality of the implementation of economic law. Rapid advances in science and technology and rapid economic development have resulted in defective products and environmental pollution, and often caused damage to the unspecified majority [9]. Whether as a state organ of law enforcement, or every individual in the market economy, when carrying out economic activities, it will more or less produce a shadow for others. This kind of shadow is not necessarily a direct one, but also an indirect one. The establishment and implementation of effective property rights system can solve externalities. If the market and enterprises can not solve the externalities at the appropriate cost, the existence of the government itself is the best result. Its degree is determined by the interaction between individual decision-making and action subject decision-making, which has endogenous characteristics. In the comparison of cost and benefit, we should try to monetize as much as possible. The main method that can't be monetized is to use qualitative methods with a certain limit. The principle of fault liability cannot solve the negative externalities such as defects caused by defective products and environmental pollution caused by modern market economy. The economics of public interest in economic law has made the implementation of economic law largely evolve into an economic activity. In order for the victim to receive relief, the victim must be proved to be at fault. From a comprehensive perspective, the interests have differentiated. There are independent interests such as individual interests, group interests, social interests and national interests.

### **3. The Solution of Externality in the Implementation of Economic Law**

In order to internalize the externality of economic law, we must start with legislation. Generally speaking, it is necessary to define clearly the powers of legislation at all levels. Establish an appropriate compensation system to compensate for some damage in the legislative process, so as to improve the legislative system. Without the initial definition of such rights, there would be no negotiation and no market transaction of transfer and recombination of rights. People have to meet their production needs through exchange, so the market can be created. The differentiation of interests has formed a multi-stakeholder, and the strong pursuit of individual economic interests constitutes the motive force of competition. In the field of tort law, the fault liability is changed to the strict liability principle, and the social cost is internalized into the individual cost of the producer or operator through private law. There should be a clear law to distribute the white-training benefits in the legislative process, so as to avoid competition for various layers due to unclear legislative power. The monopoly caused by free competition has in turn greatly restricted free competition. Personal interests can not only be consistent with social interests, but also directly harm the interests of society.

The result of social differentiation is that if we rely solely on the power of the market, the capitalist economy can no longer operate at a high speed and maintain the public interest. Market entities often regard the implementation of economic law as an important means to achieve their own business objectives. Second, the beneficiaries of the public interest are uncertain. Damage is caused by an unspecified majority, and it is very difficult to identify the perpetrators. In the process of implementing economic law, activities of economic entities will also occur [10]. To internalize it, we must improve the public implementation system of economic law, and at the same time establish and improve the private implementation system of economic law. If the law gives the injured party the right to prosecute the party that produces externalities, the externalities will be eliminated through the form of legal system. With the strengthening of government's economic function, economic law has gradually developed from the law of overcoming economic crisis to the law of government's active intervention in the economy to promote economic development. When someone is needed to realize the public interest, or when the public interest is damaged. No one takes the initiative to realize the public interest, nor does anyone stop acts harming the public interest.

The implementation of law usually has two mechanisms: public law enforcement and private law enforcement, and the implementation of economic law is no exception. Therefore, the externality of economic law implementation includes the externality of public implementation and the externality of private implementation. People hope to rectify the externality in the economic field through economic law, but they have not expected that economic law itself will be troubled by externality. The enactment and implementation of economic law often results in additional costs or benefits to others. In order to resolve the conflict of interests, it is necessary to expand the channels for individuals and interest groups to express their interests normally and balance the demands of different interests. The externality of the public implementation of economic law refers to the extra cost or benefit generated by economic law enforcement agencies and their law enforcement personnel in the implementation of economic law. Individuals constitute interest groups, and interest groups constitute society. Different people, different interest groups, and individuals and interest groups often have different interests and preferences. Victims of externality that give government behavior can sue the government at a very low cost. This actually requires the realization of the transition from the power standard to the rights standard, so that citizens have legitimate rights to reasonably question the power.

In the internalization of the externalities of economic law, the first thing is to improve the public facilities system. Most public institutions have certain administrative enforcement powers. In order to be bound by it, it is necessary to improve the civil service system and the administrative compensation system for customs. With the development and progress of the human economy and society, the public interest has gradually become a real interest. Although civil and commercial law can also play a role in protecting and promoting the public interest, it belongs to the individual

interest standard method. For positive externalities, civil law can encourage positive externalities by giving positive externalities producers monopoly profits for a certain period of time. Social law is not only a way to solve social problems, but also a way to promote the development of social public utilities. Under the dual effects of capitalization and industrialization, the phenomenon of social differentiation and imbalance formed on the basis of social differences has become a social problem with universality and social crisis. Entity is the basis of procedure, procedure is the guarantee of entity, and the function of substantive law is brought into play. In addition to perfecting its own system construction, procedural law is also needed to safeguard, in order to achieve the purpose set.

#### 4. Conclusion

As a law regulating economy, economic law plays an irreplaceable role in market economy. The formulation and implementation of economic law will inevitably produce externalities, and the externalities of economic law will bring many disadvantages to the main body of market economy. Therefore, we should improve the economic system and internalize the externality of economic law. At present, China's economic development is rapid, but the economic system is not perfect enough. Only a perfect economic system can guarantee the smooth progress of the internalization of the externality of economic law and make our economy develop more rapidly. Compared with the economic system, the economic law is directly functioning through the internal function of the market economic system, and the social law is an indirect function through the outside of the market economic system. The externality of the main body of economic law has caused an imbalance between the rights and obligations of the main body of economic law and its stakeholders. Since the reporting system is not institutionalized or ruled by law, the enthusiasm of private reporting of economic violations is not high. Economic laws have indirect promotional functions, such as by providing an economic material basis. Therefore, the proper functioning of the two legal departments can undoubtedly promote the harmonious development of the economy and society.

#### References

- [1] Andersen, H. Protection of Non-Trade Values in WTO Appellate Body Jurisprudence: Exceptions, Economic Arguments, and Eluding Questions[J]. *Journal of International Economic Law*, 2015, 18(2):383-405.
- [2] Waldo S, Jensen F, Nielsen M, et al. Regulating Multiple Externalities: The Case of Nordic Fisheries[J]. *Marine Resource Economics*, 2016, 31(2):233-257.
- [3] Bernardo A E, Talley E L, Welch I. Designing Corporate Bailouts[J]. *The Journal of Law and Economics*, 2016, 59(1):75-104.
- [4] Ueda, Kenichi. Banks as coordinators of economic growth and stability: Microfoundation for macroeconomy with externality[J]. *Journal of Economic Theory*, 2013, 148(1):322-352.
- [5] Chang Y C, Smith H E. The numerus clausus principle, property customs, and the emergence of new property forms[J]. *Iowa Law Review*, 2015, 100(6):2275-2308.
- [6] Acharya V V, Bisin A. Counterparty Risk Externality: Centralized Versus Over-The-Counter Markets[J]. *Social Science Electronic Publishing*, 2014, 149(1):153-182.
- [7] Benndorf V, Kübler, Dorothea, Normann H T. Privacy concerns, voluntary disclosure of information, and unraveling: An experiment[J]. *European Economic Review*, 2015, 75:43-59.
- [8] Batina R G, Galinato G I. The Spillover Effects of Good Governance in a Tax Competition Framework with a Negative Environmental Externality[J]. *Environmental and Resource Economics*, 2016:1-24.
- [9] Loo B P Y, Banister D. Decoupling transport from economic growth: Extending the debate to include environmental and social externalities[J]. *Journal of Transport Geography*, 2016, 57:134-144.
- [10] Daido K, Tabata K. Public infrastructure, production organization, and economic development [J]. *Journal of Macroeconomics*, 2013, 38(Part B):330-346.