

Research on Government's Legislative Function in Promoting Shared Development*

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Abstract—Shared development is an important task and value pursuit in contemporary China, while rule of law is an important means to guide, supervise and guarantee shared development, which is also shared development's content essence. Now, government legislation has become a key way to promote shared development with "system" legislation safeguard function, "managing" legislation safeguard function, "promoting" legislation safeguard function to construct institutional basis for shared development and law rule barrier, which will provide share economic civilization, political civilization and social civilization, ecological civilization to people to expand shared development's scope and breadth.

Keywords—shared development; government legislation; institutional functions; managerial functions; facilitation function

I. INTRODUCTION

Shared development is an important task and pursuit in China, but shared development is a complex social issue, which is not only a single economic or a political issue, but also a complex social phenomenon. Shared development includes not only sharing material wealth, but also sharing political civilization, social civilization and ecological civilization to realize sharing labor process and sharing labor fruits, sharing material civilization and sharing spiritual civilization to protect the unity of human development and social development. Therefore, in order to realize shared development, it is necessary for China to make use of law to promote in realizing shared development, which can guide, supervise and safeguard shared development. [1] So to attempt to study shared development from government legislation has important theoretical and practical values.

II. GOVERNMENT LEGISLATION'S "INSTITUTIONAL" FUNCTION IN PROMOTING SHARED DEVELOPMENT

The so-called government legislation's "institutional" safeguard function refers to providing a direct legal support for shared development by means of government legislation, which has many characteristics, such as macroscopic, global, strategic designing from system level, rather than on specific measures level embodying the principle with system design and rule of law safeguard. Generally speaking, governments guarantee the basic social system through a variety of laws to maintain socialist country's basic political system, economic

system, cultural system, etc. and resolutely oppose to trying to overthrow socialist basic system, such as the people's congress system, national regional autonomy system, the political consultation system, grassroots democracy system construction, etc. A stable socialist system which is people's survival and development basis can protect people's rights in all kind of fields. In addition, government can also define relevant systems through legislative means so as to let people directly participate in their own development. Government can guarantee citizens' own development from specific law system construction to protect people's basic rights such as survival and development's right to provide basic individual protection. From people's development, government can provide some specific safeguard measures such as right to participate in social labor and right having equal education, etc. Government should regulate people's participation in social activities to ensure that they can enjoy participation in distribution, consumption, social management, old-age care, medical care and social services and so on. At the same time, government legislation is also necessary to stipulate people's obligations from equal rights and obligations so as to guarantee the unity of individual development and social development.

III. GOVERNMENT LEGISLATION'S "MANAGEMENT-ORIENTED" FUNCTION IN PROMOTING SHARED DEVELOPMENT

The so-called government legislation's "management-oriented" guarantee function mainly refers to government's regulation and management in social development, such as economy, politics, culture, society and ecology, etc. in which there is full of legislative means. It focuses on managing and regulating economic and social development with socialist market economy's system and combines with socialist market economy development, which is usually referred to as "managerial legislation" in the theoretical circle. Its content is mainly embodied in economic field, social management field, and cultural management field and so on, through government legislation in the specification to ensure social development, realize coordinated development, healthy development in various fields to promote social benign operation and guarantee for shared development.

A. *The Rule of Law's Function in Economic Field*

Market economy is law economy which means that economic development can't leave market. With socialist market economic development in China, especially since the market becoming a decisive factor, rule of law becomes more and more important, and especially sharing economy must rely on the law's guarantee "to strengthen legislative work, strengthen law enforcement, franco-prussian propaganda". [2] Therefore, government must regulate and manage market economy by means of legislation so as to promote economic development correctly, which involves production and operation, exchange, consumption, distribution and circulation. From enterprises' main body, It can ensure enterprise supply suitable production through legislation safeguard leading producers and consumers' common development by laws' regulating producer's behavior, producers' obligation and rights etc., such as company law, partnership enterprises law, township enterprises law, to regulate enterprises' behavior in production, exchange, circulation, distribution, behavior, etc. From consumer subjects, it can protect their rights, obligations by relevant legislation so as to ensure social labor fruits' consumed by the vast number of people such as anti — unfair competition law, consumer rights and interests protection law. From market flowing behavior, there must be some relevant laws to regulate economic development in market economic activities so as to standardize market economy operation's benign mechanism such as security law, maritime law, insurance law, negotiable instruments law, urban real estate management law, advertising law, CPA law, arbitration law, audit law, budget law and so on. From market system construction, government regulates market operation, market competition and market behavior through legislation and maintains market exchange and market circulation to create a healthy and positive business environment.

B. *The Rule of Law's Function Management Function in Non-economic Field*

"Government and market are two basic ways in resource allocation under modern market conditions. How to deal with the relationship between government and market is a common issue faced by contemporary market economies." [3] At present, we are in a critical period when market is the decisive role in the field of resource's allocation, and government still plays a decisive role in other field such political field, cultural field, social field and so on. So we need legislation means to achieve government's role in other fields, such as administration, culture, education, social security, ecological construction to create a good social environment. Rule of law in non-economic management and economic management is different in which it does not directly involved in economic management activities, but the same nature with legal rigid function and specification with the regulation object's non-economic behavior. Such as the administrative law in higher education, occupational disease prevention law and other laws, labor law, cultural protection relics and so on, which are aimed at education department, health and epidemic prevention departments, trade union and other related institutions to standardize work unit and the

department of regulation and management's work. To ensure individuals to share a better life through social development, government has enacted the social insurance law, the labor contract law, the employment promotion law, the people's mediation law, the labor dispute mediation and arbitration law, and the food safety law providing basic legal protection for the people's lives. In order to ensure natural environment for people to share development and expand social space, government has enacted the renewable energy law, the circular economy promotion law and the environmental impact assessment law to provide a good living environment for people to realize shared development.

C. *Government Legislation's "Facilitative" Function in Promoting Shared Development*

The so-called "promoting" legislation safeguard function refers to that government can predict some prominent problems in the social development and give a prospective guide, specification through legislation to realize to promote society control function with some special features", guiding priority with advocating norms, paying attention to advance, stressing government's policy, legal responsibility, encouraging support, commendation and reward, moral advocate specification and management constraints specifications." [4] Government can provide guidance and risk protection for relevant issues in market economy through such legislation, which is often called "promoting" legislation in the theoretical circle, providing a scientific basis for social development.

D. *Strengthening Government's Market Service Function*

Before 1978, China mainly adopted administrative management's mode in which everything was based on administrative instructions and everything was decided by the government. This traditional planned administrative system restricted our development. Since the reform from 1978, China has gradually broken the traditional government administration system, experiencing coexist between planned economy and market economy, market's basic role, market's decisive role which requires that we should coordinate market elements and government specification so as to guide rational compatible relationship between government and market, and promote socialist market economy, growing a service-oriented government function. Against the background of our economic development, we constructed our socialist market economy and made a great improvement, and thus "promoting" legislation is adapted to socialist market economy's practical demands. In recent years, our country enacted laws including the Agricultural Technology Promotion Law in the People's Republic of China (1993), the Progress of Science and Technology Law in the People's Republic of China (1993), "Private Education Promotion Law in the People's Republic of China" (2002), "the Agricultural Mechanization Promotion Law in the People's Republic of China" (2004), the Renewable Energy Law in the People's Republic of China (2006), etc.; Employment Promotion Law in the People's Republic of China (2008), Circular Economy Promotion Law in the People's Republic of China (2009), Clean Production Promotion Law in the People's Republic of China (2012), etc. Through the laws,

people have made a lot of progress in our economic development, but we must know that there are still many areas in economic development to explore especially when market's role becomes more and more important.

E. Highlighting Government's Normative Guiding Function

"Promoting" legislation is crucial to suit market environment whose key is to guide and try to minimize legal attribute providing incentives and rewards, guidance, support, encouragement in the social development to guide economic development's direction, standardize social development, etc. Therefore, this legislative function can highlight government's normative and guiding function to economic development, at the same time, it can reduce administration's mandatory attribute under planned economy in the past so as to regulate and manage by non-mandatory means, and emphasize government legal means' management characteristics. In addition, the management will not pay more attention to law's punishment, but through relevant policies guiding the enterprise to do according to government's requirements for economic subject. There are no detailed rules about law responsibility and more emphasis on social responsibility, moral responsibility, and political responsibility.

F. Strengthening Government's Prior Regulation Function

The so-called government's prior regulation function mainly refers to that government can learn about or predict some problems when the problems hasn't happened by a certain scientific method, based on facts, theoretical basis and logical prediction, practical reasoning, the possible problems in the process of economic and social development to forecast and put forward some preventive measures and solutions by the rule of law's ways to regulate and manage the social problems or other problems. Through such legislative means, government can improve its own pre-regulatory function for market economy and social field. With market being a decisive factor, it is important for government to guide market economy and all kind of things in society. In the market economy, the resources' allocation is carried out spontaneously by the market, which is an "afterthought, internal and silent natural necessity". [5] If government fails to regulate and manage by relevant means, the market economy's drawbacks will be strengthened, and a series of economic, social and political problems will emerge, which will affect people's lives. Therefore, if government can pass legislation means for market policy and behavior guidelines and predictability in advance to give prospective specification, we will avoid market economy's weakness to standardize market economic operation, provide good institutional guidance for socialist market economy practice. But traditional management legislation mainly solves realistic demand's problem, which belongs to adjusting norms, mostly for market economy's operation problems, but when we face the harm and influence in the future, we can avoid loss that can be predicted in advance. And "promoting" legislation, on the other hand, is used when there is no good social relations, market still doesn't form with special areas needing to be encouraged, market problems is likely to

appear such as solving "supply" problem, positive promoting and guiding role in special industries and emerging industry.

IV. CONCLUSION

In short, against the macro background that shared development has become an important contemporary issue, government can make some security system, manage security and promote security by means of legislation to make people share economic civilization, political civilization, social civilization and ecological civilization to build a shared development's outer barrier.

ACKNOWLEDGMENT

This research was financially supported by the National Social Science Foundation of China (Grant NO. 17BKS017).

REFERENCES

- [1] Lou Shuhua, Bi Tengya: Theory of Ideas: the Role of "Rule of Law" in Shared Development, Nanchang Normal University's Journal, vol.38, pp17-20, February 2017.
- [2] Wang Min, Yang Xingxiang: Laying a Solid Foundation for the Rule of Law for the Healthy Development of Sharing Economy, People's BBS, vol.31, PP164-165, December 2017.
- [3] Qiu Haiping, Enabling Market to Play a Decisive Role in Resource Allocation and Playing the Government's Role — The New Development of Socialist Economics with Chinese Characteristics, Academic Journal, v vol.9, pp47-60, September 2015.
- [4] Li Longliang: Analysis on Several Issues of Promoting Legislation, Social Science Journal, vol.4, pp110-113, April 2010.
- [5] Marx, Capital, volume 1, People's Publishing House, 2004, pp 412.