

Research on New Promoting Legal Legislation

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Abstract. In the new era of the rule of law, the promotion type of law is a new type of law, different from the general traditional sense of the department law. The promotion method responds to social needs and provides governance incentives. Promotion law has a unique legal responsibility distribution system, which exists as a special type of legislation. This paper systematically expounds the legislative characteristics of promoting law, including the specificity of content, the incentive of behavior, the dominance of government and the weakening of legal responsibility. Promoting legislation is a positive and forward-looking legislative model that aims to promote the development of economic, social, cultural and ecological fields through the formulation and implementation of laws and regulations. This legislative method is proactive, guiding, encouraging and coordinated, and can meet the needs of social development and promote the modernization of China's governance system and capacity.

Keywords: New Era; Promotion; Legislation

1. Introduction

From 2012 to 2022, promote the number of law enacted gradually increased, promote the quality of the legal legislation to improve, especially during 2018, the National People's Congress to promote new amendments, such as the law of the People's Republic of China, the circular economy of the law of the People's Republic of China and the agricultural mechanization promotion law of the People's Republic of China, etc. In fact, each promotion law is a law enacted and implemented for specific fields, with differences in the legislative purpose, chapter setting, adjustment means, legal responsibility and other aspects. Therefore, how to define the concept of promotion method and make it classify and seek common ground has triggered many scholars' different views on the concept of

promotion method. Based on the urgent need of China's economic and social development, some scholars define the promotion law as a general term of legal norms formulated by state organs for the purpose of confirming, protecting, encouraging and guiding the economic and social relations or order expected to develop by some countries[1]. Under this definition, the promoting law pays attention to guiding and encouraging the development of national economy and society, but it is relatively generalized at the legislative level, and its practicality is not prominent. Based on this, some scholars have conceptually defined the promoting law as a legal type with specific behavior guidance or goal planning as the main content and not relying on coercive force as the main means[2]. The definition of legal concept can effectively compensate the deficiency of other social norms, thus making up for its legitimacy and legitimacy. Through the elaboration of the definition of the promoting law, we can understand the characteristics of the specific content, the non-compulsion of the means, and the legitimacy of the legislation. Promotion law is a general term for the legal norms formed to stimulate the development of some basic, weak or weak industries with special value or potential[3]One of its characteristics is that there are very few or no legal liability clauses, which can be used as a new legal phenomenon of an important legal system formulated by the national legislature. According to the above relevant scholars' research on the concept of promoting law, the definition of promoting law can be summarized as a legal type with a law with the function of encouraging and promoting, with specific behavior as the guidance or goal planning as the main content, and not relying on coercive force as the main means[4], The purpose is to promote the development of specific fields or industries.

2. The Facilitation Laws Promulgated and Implemented in Specific Fields Are Specific

Promotion law formulates specific legal norms and measures for the development of specific fields or industries, and its objectives, norms, policy guidance and regulatory requirements are all clear and specific. The legal purpose or response to social needs set by the facilitation law is specific, rather than universal or abstract, and it points to relatively specific social goals.

First, the facilitation law has a clear goal, which is to promote the development of a specific field or industry. These goals may involve areas such as improving family education, promoting circular economy, improving the quality of health services, and improving employment opportunities. For example, Article 1 of the newly revised Circular Economy Promotion Law in 2018 stipulates: " This Law is formulated to promote the development of circular economy, improve the efficiency of using resources, protect and improve the environment, and achieve sustainable development."

Secondly, the norms of facilitation laws are usually more specific and are designed to provide clear guidance and requirements for individuals or organizations. These norms may involve codes of conduct, standard requirements, incentives, and so on. For example, Article 12 of the Family Education Promotion Law promulgated and implemented in 2022 stipulates: " The state encourages and supports natural persons, legal persons and unlegal organizations to donate or provide voluntary services for family education undertakings, and gives preferential tax benefits to those who meet the requirements according to law. The State shall commend and reward organizations and individuals who have made outstanding contributions to family education in accordance with relevant regulations."

In addition, facilitation laws usually have a policy orientation, that is, to guide the behavior and decisions of individuals or organizations through the formulation of specific policies and measures. These policies may involve fiscal, tax, financial and other aspects. For example, Article 15 of the newly revised Employment Promotion Law in 2015 stipulates: " The state shall implement a fiscal policy conducive to promoting employment, increase capital input, improve the employment environment and expand employment." Finally, facilitation laws usually contain certain regulatory requirements to ensure order and stability in a specific field or industry. For example, articles 102 to 105 of the

Basic Medical and Health care and Health Promotion Law promulgated in 2020 stipulate the regulatory requirements and penalties for the quality and safety standards of medical and health services.

To sum up, the specific nature of the promotion law content is manifested in clear objectives, specific norms, policy orientation and regulatory requirements. These aspects together constitute the important characteristics of promoting law, aiming to formulate specific legal norms and measures for specific fields or industries to realize their benign development.

3. Promotion Type Law to Adopt Incentive Governance Means to Encourage the Active Participation of the Public

The legislative purpose of promotion law is to encourage, promote or promote the development of basic and weak industries or undertakings, while the social relations have not yet formed a good development, the market size has not yet formed and need to encourage the formation of market size[5]The development of this field can be encouraged through legal means, to stimulate the enthusiasm and creativity of the society and the public, and to promote the development of the economy and society. The incentive of behavior means that the subject uses legal means to implement legal behavior, encourages people to act in accordance with the direction prescribed by the law, so as to achieve the role of publicizing the rule of law, so as to realize the legal provisions and expectations of the law[6]. That is to say, it is necessary to cultivate the sense of public and social identity through the relevant laws formulated by the state, and then create a positive attitude and positive emotion, and even stimulate a strong motivation to promote the realization of the goals[7]. The incentive of behavior can not only stimulate the behavior subject to take legal behavior, but also promote the actor to form a positive attitude and emotion, and further generate the power to achieve the goals encouraged and promoted by the law. This incentive not only helps to regulate the behavior of the actors, but also promotes them to actively pursue the social relationship model system expected by the law, and contribute to the realization of the expected legal effect.

Although incentive can not be regarded as the fundamental attribute of judgment promoting law, it can be affirmed as a unique characteristic.

The promotion law has the incentive power. Although the word "incentive" only includes the positive adjustment mode in the surface meaning, the word "promotion" in the superficial meaning means not only contains the positive promotion mode, but also contains the reverse inhibitory effect, that is, the formulation of liability provisions against the law. Therefore, as a promoting law, the existing value is precisely needed to have a positive, incentive existence, in order to better promote the implementation of the law. At the same time, the promotion type law is the legal type that does not rely on the coercive force as the main means, and has the non-mandatory means. Although the promotion law needs the implementation of national enforcement, it is not implemented by compulsory means, so the non-compulsion of the means does not conflict with the compulsion of the state. Promoting law is not enforcement force, which means that individuals or organizations can choose whether to participate in the development of specific areas or industry, do not have to be subject to the law, the non-mandatory for individuals or organizations provides more autonomy and flexibility, also can be more incentive actor law expected behavior to achieve the expected development of social goals.

4. Promotion Law Emphasizes Government-Led and Promotes the Development of Needs In Specific Fields

In the promoting law, the government usually plays the dominant role in guiding and promoting the development of specific fields or industries through the development of standards, policies and regulatory measures. The dominance of the government is reflected in the legislative purpose, implementation mode and supervision and evaluation, so as to ensure the effective implementation of the law and the achievement of the goal. The relevant provisions set up in the promotion law often use the proactive words of "promotion", "guidance", "promotion" and "encouragement"[8]. For example, in terms of legislative purposes, Article 1 of the Rural Revitalization Promotion Law promulgated and implemented in 2021 stipulates: " This Law is formulated to fully implement the rural revitalization strategy, promote comprehensive agricultural upgrading, comprehensive rural progress, and comprehensive development of farmers,

accelerate agricultural and rural modernization, and build a modern socialist country in an all-round way."The promulgation and implementation of the Law aims to promote rural revitalization and improve the quality of rural industrial and economic development. There are 73 articles, nearly 3 / 4 of the legal provisions involving the government, but the Law basically has no relevant legal liability provisions, which is enough to show the dominant position of the government in the field of rural revitalization and the wide role of promotion. Despite this, more emphasis on the dominant government can serve and promote the development of more specific areas and weak industries. The promotion law is different from the traditional management law, which advocates and encourages the public and social participation led by the government. In addition, the government is the basic force for the operation of the promoting legal system. Use the power of the government to set the goal and direction of promotion from the macro perspective, improve the relevant legal system and infrastructure, so as to cultivate an atmosphere and drive and guide the attention and participation of the public and social subjects.

In order to promote economic development, social progress or realize other public interests, the state formulates corresponding promoting laws. These laws usually do not have the traditional regulation or punishment, but through encouragement, guidance and incentive to promote the public and the society to take beneficial behaviors, so as to achieve the purpose of promoting development. In promoting law, the dominance of the government can be shown as: first, the government by formulating standards and norms to guide the behavior of the public and society, these standards and norms are usually according to the needs of economic development and the requirements of social public interests, aims to promote organizations and individuals to take beneficial behavior, realize the public interest. Second, governments usually motivate organizations and individuals to adopt beneficial behavior through financial support and incentives. These financial support and incentives can be tax incentives, subsidies, loans, etc. to encourage organizations and individuals to invest in a specific field or industry. Third, the government usually supervises and evaluates the

implementation of facilitation laws to ensure that these laws are effectively implemented to achieve the desired effect. Governments may monitor and inspect the actions of individuals and organizations to ensure that they meet legal requirements and standards. Fourthly, the government usually improves the public's understanding and understanding of promoting laws through publicity and education, and can publicize the importance and role of promoting laws through media, publicity materials, websites and other channels, so as to enhance the public's cognition and support for promoting laws.

5. The Imbalance of Promoting Legal Rights and Obligations, and the Legal Responsibilities Are Relatively Weak

For any law, legal responsibility is an important part of the operation of the law, which is one of the key factors to ensure the effective implementation of the law. Rights must have the corresponding obligations, but for the promotion law, it focuses more on the encouragement, promotion and guidance, rather than the coercion and punishment of the traditional law. Therefore, the legal responsibility of facilitation law is usually not punitive, but with the main purpose of promoting the realization of specific social goals. When setting the legal responsibility, the promotion law pays more attention to the joint participation and cooperation of all aspects, which reflects a comprehensive responsibility mechanism, including legal responsibility, moral responsibility, social responsibility and political responsibility[9], And through other supervision mechanisms to restrict, in order to promote the government administration according to law. This comprehensive responsibility mechanism is set up to ensure the effective implementation of the law. It is a new responsibility mechanism, which breaks through the single legal responsibility in the traditional management legislation. The comprehensive responsibility mechanism not only emphasizes the legal responsibility for illegal acts, but also emphasizes that the government has the responsibility to better ensure law enforcement, improve the fairness and fairness of the law, improve the operation of the law, and promote the innovation and development of the law.

Obviously, different from the traditional management legislation, the promoting

legislation pays more attention to the prevention and incentive, rather than a single punishment. Therefore, the legal responsibility in the promoting legislation pays more attention to the prevention and correction of the illegal acts, rather than the severe punishment of the illegal acts. In addition, promoting legislation emphasizes the cooperation between the government, enterprises, society and the public to jointly promote the development of industries or undertakings with weak foundation. Under this cooperation mode, the setting of legal responsibility pays more attention to the joint participation and cooperation of all aspects, rather than the single government regulation. Lawmakers must strike a balance between the stability and adaptability of the law. By developing forward-looking legislation, introducing the appropriate legal review process, keeping the law adaptable and flexible, and ensuring legal clarity and consistency, while maintaining positive enthusiasm for the target groups and stakeholders. Therefore, the most direct way to maintain this enthusiasm is to reduce or not introduce the legal liability clause. For example, the Law on the Promotion of Rural Revitalization was promulgated and implemented in 2021, There is basically no legal liability clause, let alone the legal liability independent chapter. In 2018, the Law on the Promotion of Small and Medium-sized Enterprises was revised and implemented in 2018, There is no corresponding legal liability clause. Although in most of the promoting legal legislation practice, the legal liability clause will still be set by the legislators, but the legal liability clause is not large. For example, the Family Education Promotion Law, implemented in 2022 has 55 articles Although the legal liability is independent, only seven relevant legal liability clauses are set up. The Basic Medical and Health Care and Health Promotion Law was promulgated and implemented in 2020, But there are only nine legal liability provisions. From the above share of the legal liability provisions in the promotion law, the liability provisions are generally few or no clear provisions, and the liability is relatively light and diverse, reflecting the characteristics of relatively weak legal liability.

6. Conclusion

Promoting legal legislation is not only an innovation of the traditional legislative mode,

but also a positive response to the needs of social development. The emergence of promoting law marks the renewal and development of the concept of the rule of law, and its legislative characteristics reflect the flexibility and forward-looking nature of the rule of law, and provide an important guarantee for the benign development of social economy. With its unique legislative concept and practical characteristics, the promoting law leads the innovation and development of the legislative mode. In the future legislation practice, should continue to carry forward the concept of promoting law, adhere to serve the social development, promote the public interest for the purpose, give full play to the government's leading role, strengthen the cooperation and communication with the social from all walks of life, improve the legal system, for the national management system and management ability to provide more effective system guarantee.

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