

# Legal Principle Analysis and System Perfection Research of Economic Law

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## Abstract

As for the legal principles in economic law, it can be refined and typed under the analytical framework of "value-norm". By referring to the research results of historical documents, the legal principle in economic law can be defined as the "broad value" to explain the rationality of economic law, which is concentrated on three levels of basic principle, objective value and basic principle, and is the "soul" and "meridians" in the concrete norms of economic law. In the long process of law implementation in Our country, people often only pay attention to the application of the punishment system, but ignore the role of rewards. After the introduction of economic law, people pay attention to economic rewards. Economic law plays an important role in economic development, and its reward and punishment system is not very perfect, which also affects its effectiveness. This paper studies and discusses how to perfect the legal principle and reward and punishment system of China's economic law in order to better play the role of economic law.

## Keywords

Economic law; Legal principle; System of rewards and penalties.

## 1. Introduction

Since China's reform and opening up, especially since the implementation of the market economy system, economic law theory from scratch, gradually improved, its basic system has been formed. From the perspective of academic development history, the research on ontology, axiology and genesis of economic law was concentrated in the early stage of economic law theory. With the development of economic law theory, the normative theory, operation theory, category theory of economic law is increasingly in-depth, the subject theory of economic law, behavior theory, rights and obligations theory, responsibility theory, legislation theory and judicial theory is the focus of academic attention, its research process through a lot of "jurisprudence thinking".

In recent years, under the complex background of economic globalization, countries strive to promote the overall reform, the rule of law and development of the "three main" intertwined in parallel, puts forward the higher request of economic law theory, this makes the allocation theory, development theory, information theory, risk theory, studies the importance, which involves the legal problem more complicated. In view of the changes in the theoretical research focus of economic law in different historical periods, how to excavate the jurisprudence behind it, so as to effectively extract and construct relevant theories and guide the practice of rule of law according to them has become an important issue that needs special attention in economic law research.

As a country advocating democracy and legal system, China should protect the legitimate rights and interests of the people, and guide the people to rationally protect their rights through law, so as to promote social harmony and stability. Therefore, it is necessary to give full play to the

role of reward system while punishing illegal and criminal behaviors. The law stipulates the rights and obligations that people should fulfill, and a citizen who has made a certain contribution to the society needs to be rewarded in time. The establishment of reward and punishment system in law plays an important role in maintaining legal fairness and improving citizens' enthusiasm to fulfill their obligations according to law. As an important law to promote social and economic development, it is of great significance to establish reward and punishment system in economic law and implement it according to law. However, the reward and punishment system in the current economic law of our country is not very perfect, so it is very necessary to explore the strategy of perfecting the reward and punishment system of economic law.

## 2. The Definition of Jurisprudence in Economic Law

There is a reason for everything. From the original meaning of "li", natural things have their texture, level and order. Both external "Li" and internal "Li" are related to their structure and related laws. By extension, things have physics, mind has psychology, tao has reason, and law has legal reason. In the field of law and jurisprudence, it is especially necessary to understand, explain and explain the reasonableness and legality of the formation, composition and achievement of law, and explain its inherent regularity, so as to present the concept, spirit and principle of law. Only real legal principles have vitality, influence, even control and binding force. As for the answer to the question of "legal theory", there is still no agreement in the academic circle. Based on the "legal" the history of etymology, the scholar thinks, traditional Chinese historical documents is one of the main meaning of the word "legal" refers to the value pursuit of law provision behind and common principles, even though the Chinese traditional "jurisprudence" and modern "jurisprudence" has certain academic differences in connotation, but from the basic meaning, As the concept, law, value pursuit and justification behind the legal provisions, they are almost the same.

The above understanding is very consistent with the understanding of jurisprudence in economic law in this paper. This paper holds that, under the analytical framework of "value-norm", the legal principle throughout the whole economic law refers to the "broad value" used to explain the rationality of economic law behind specific norms.

Accordingly, the jurisprudence in economic law is mainly reflected in three levels: First, integrate the "basic principles" of relevant concepts and laws; Second, the "purpose value" of economic law which embodies the above basic principles; Third, the "basic principles" that embody the above-mentioned objective value and the spirit of economic law. These three levels reflect the obvious "texture", the structure level and the order of development of the jurisprudence in economic law.

The "generalized value" mentioned above, as the "soul" of various specific norms, will penetrate into the economic law system and provide the rationale support for the operation of the system. In fact, if all kinds of specific norms or systems lack corresponding ideas and spirit, cannot reflect corresponding laws and principles, and cannot follow due values and principles, they will inevitably be difficult to survive or cannot operate effectively due to the lack of rationality and legality.

Therefore, specific norms or systems must not lack due jurisprudence, otherwise they will be "out of their minds", "flagging", difficult to play its due function. In this sense, the legal system of legal theory is to support and lead the existence and operation of "god", the legal theory and legal system is "god" and "shape", the relationship between the specific standard or system can have a variety of forms, but the whole legal system must have legal theory through successively, such ability "xingshenjianbei", "in appearance and spirit", which really long, Give full play to the respective functions of values and norms.

Based on the above definition of legal theory, under the framework of "value-norm", we should not only pay attention to the important influence of value on norm, but also see the important function of norm as an important carrier and realization tool of value. In the field of economic law and other new departments, it is always necessary to reveal its own uniqueness and importance from the dimension of jurisprudence, and to clarify its rationality and legitimacy of its existence. Because of this, over the past hundred years, Chinese and foreign scholars have never stopped discussing the necessity of the emergence and development of economic law, and have continuously enriched the content of economic law theory.

In order to further demonstrate the above definition of legal principles in economic law, the following is intended to reveal the embodiments of legal principles in economic law at different levels from the above-mentioned three levels of basic principles, purpose value and basic principles of economic law, and explain the internal relevance and important value of various "legal principles".

First of all, from the perspective of the "basic principles" of economic law jurisprudence, the basic principles of economic law is to reflect the basic ideas of economic law and corresponding economic laws, with the original truth. It is the basis of all kinds of basic theories of economic law and the premise of constructing economic law system. The purpose value and basic principle of economic law can be deduced from the basic principle.

The academic research on the basic principles of economic law is not enough, which is directly related to the difficulty of refining the basic principles. Considering that economic law should solve the basic problems of "two failures" of market and government, and the basic contradiction of "individual profit-making and social public welfare", these problems and contradictions are derived from various "differences" existing in reality. At the same time, to solve the problem of unreasonable difference is also an important function and task of economic law, so we can take "difference principle" as a basic principle of economic law.

The principle of "dual structure" of economic law can be deduced from the principle of difference, and then the principle of economy, regulation, balance and integrity can be deduced. The theories of economic law contained in these principles are helpful to explain the reasons and motivation of the emergence and development of economic law, the objectives and functions of economic law, and the characteristics of the protection of legal interests of economic law. According to the above legal principles, we can clarify how to construct the legal system of economic law, how to form the norms of economic law and how to be perfected. It can be seen that the jurisprudence contained in the basic principles of economic law has very important theoretical and practical value.

Secondly, from the perspective of "objective value" of economic law jurisprudence, the objective value of economic law is mainly reflected in efficiency and fairness, freedom and order, development and security and other interrelated values. The realization of these value goals is helpful to realize various kinds of justice in the field of economic law.

The value pursuit of economic law is intrinsically consistent with the aforementioned basic principle. For example, from the perspective of difference principle, many difference problems involved in economic law will lead to the contradiction between individual profit-making and social welfare: based on individual profit-making, we need to pay attention to efficiency, freedom and development; Based on social welfare, we need to pay attention to fairness, order and security. It can be seen that many values are closely related, and their complex correlation requires "coordination and integration" in economic law system, which is reflected in the purpose of economic law and becomes the guide of specific economic law norms. And the "coordination and integration" of all kinds of values, especially need to reflect the concept of economic law and related laws of all kinds of basic principles.

Value to the specification has had a huge impact, therefore, the people to explore the influence of the various economic law system or specific specification establishment, modification, cancellation, explain whether to promote efficiency or equity, whether help protect freedom (such as a good business environment, the positive role of market mechanism) or order (such as the market order of fair competition, economic benign operation), Help promote development (including the development of the individual or the whole, the development of industry and regional, etc.) or security (such as overall economic security, as well as the specific financial security, financial security, etc.), all need to interpret the rationality and legitimacy from the perspective of value pursuit, are in reference, and expounds the objective value of the law, in order to get all aspects of the recognition. Therefore, it is very important to explore the jurisprudence contained in the value system of economic law. Finally, from the perspective of "basic principles" of economic law jurisprudence, the basic principles of economic law are directly related to the above basic principles and objective value. For example, in order to reflect the principle of economy and regulation, as well as the value pursuit of efficiency and fairness, the "performance principle" (or efficiency principle) and "moderation principle" (or fairness principle) need to be established in the field of economic law.

These principles are intrinsically consistent with the economic laws embodied in the aforementioned basic principles and objective values. At the same time, in order to protect the basic rights of various subjects, clarify various decentralization frameworks under the principle of difference, and guarantee the basic rights of market subjects, it is necessary to establish the "legal principle" as the basic principle of economic law, which is also the concrete embodiment of the legal principle of economic law. Thus it can be seen that economic law legislation, enforcement, judicial and other activities, only in accordance with the above basic principles, in accordance with the legal principle of economic law, has rationality and legitimacy.

In a word, the legal principle in economic law is a kind of "broad value", which concentrates on three levels of basic principle, objective value and basic principle of economic law, and penetrates into specific norms, providing reasonable and legal support for the survival and development of the whole economic law. The legal principles in economic law, like the meridians of human beings, run through the theory and system of economic law. Compared with the concrete norms of economic law, it seems invisible, but it is indispensable. If economic law lacks sufficient legal basis, it will bring huge negative influence to the survival and development of economic law, just like impassability or fracture of channels.

In view of the complicated and numerous legal principles of economic law, it is necessary to study them on the basis of defining the legal principles of economic law. The following two dimensions are selected to discuss the different types of legal principles of economic law in order to have a more comprehensive understanding of the legal principles of economic law.

### **3. Problems Existing in the Reward and Punishment System of China's Economic Law**

Economic law as an orderly to maintain social and economic development of the new law, not only need by banning and restriction in a way similar to a traditional legal punishment rules to regulate people's behavior, such as also need through the guidance of incentive system to give people with incentives, to effectively adjust social relations, guarantee the stability of social and economic sustainable development. However, the reward and punishment system in China's economic law is still imperfect, which is reflected in the following aspects:

### **3.1. There Are Defects in the Reward and Punishment System in the Current Economic Law**

The establishment of reward and punishment system in China's current economic law has not reached every field of the economy. In the development process of China's market economy, if citizens or enterprises can consciously fulfill their obligations and safeguard the overall interests of the social economy, they should be given certain rewards. Since the implementation of the economic law, China has gradually realized the important role of the reward and punishment system in the economic law, and according to the needs of social and economic development of the reward clauses have been improved. However, due to the spontaneous nature of economic legislation, the incentive system can not be fully made into a conscious behavior. As a result, many citizens and enterprises that have made great contributions to social and economic development have not received due rewards. At the same time, the proportion of articles concerning the reward system in China's economic law is small, and there are few other laws and regulations that can reward citizens or enterprises. Therefore, in the process of implementing the reward and punishment system, its positive role cannot be reflected at all. In addition, part of the reward system for how to reward, reward standards, conditions and degree and so on are not clear provisions, so there are many problems in the specific implementation of the reward system. From a certain point of view, the system of rewards and punishments in China's current economic law has not yet played its application.

### **3.2. The Implementation of Economic Incentives Faces Many Difficulties**

Although China has supplemented and improved the economic reward system according to the needs of social and economic development, there are many difficulties in the implementation process. For example, in order to protect the interests of a small number of people, some government departments ignore the relevant provisions of the economic law and abuse their power. Some enterprises will set up corresponding reward and punishment system according to their own situation, but these systems deviate from some provisions of the economic law. Some administrative departments or enterprises in performing economic law system of rewards and punishments, there is not according to the provisions, or unfair phenomenon, such as law enforcement way let a person of the same contribution may get different incentives, such as easy to make a significant contribution to the people can not get due reward, but instead, those who contribute less to get more reward, Undoubtedly violated the original intention of the reward and punishment system of economic law.

### **3.3. Lack of Relief System Related to Economic Law Awards**

Although China is constantly improving and adjusting the current economic law reward and punishment system, there is still a lack of relief system related to economic law reward and punishment. At the same time, there are no corresponding relief methods and approaches for some economic law award clauses. In this way, it is also easy to appear that the people who should be rewarded cannot get the rewards they deserve, or after the citizens' right to reward is violated, they cannot get the help of relevant relief agencies, and the violators have not been punished in time. This imperfect relief system, naturally can not raise people's enthusiasm, also let them lose trust in the economic law reward and punishment system.

## **4. Strategies for Perfecting the Reward and Punishment System of Economic Law in China**

Although China has set up certain laws and regulations on rewards and punishments in the economic law, there are many problems as mentioned above. These problems lead to the economic law reward and punishment system can not play its due role, more can not achieve the goal of legislation. Aiming at the problems existing in the current economic law reward and



punishment system, adopting effective strategies to perfect the corresponding system can promote the good development of China's social economy.

#### **4.1. Make Clear the Principle of Establishing the Reward and Punishment System of Economic Law**

Before perfecting the reward and punishment system of China's economic law, we should first clarify the principles of the reward and punishment system of the economic law and understand which behaviors in the social economy should be rewarded and which should be punished. How to define the relevant standards of rewards and punishments, and how to implement them effectively after setting them. A clear understanding of the purpose of the reward and punishment system can ensure the system and perfection of the relevant system, and then form strong enforcement laws and regulations to fully reflect the power of law. In the process of improving the reward and punishment system of economic law, we should also be practical and realistic, adhere to the principle of fairness and justice, so that each reward and punishment can be timely implemented. In this way, we can further improve the reward and punishment system of the economic law, and make the specific implementation process more smooth, reflect the fairness and justice of the law, and help enhance the guiding role of the economic law on the social economy. The present reward and punishment system of economic law should conform to the corresponding principles, and the laws and regulations that need to be further perfected should also be carried out according to the relevant legislative principles.

#### **4.2. Perfect the Main Body of the Reward and Punishment System of Economic Law**

In the process of constructing legal system, we should deal with the relationship between reward and punishment. China's economic law reward and punishment system involves many fields and departments, these departments or individuals can be regarded as the main body of the reward and punishment system. The reward and punishment methods of these subjects are clearly prescribed to ensure the smooth implementation of relevant systems. First of all, these subjects are not limited to a specific enterprise or a person, and in different social and economic activities, the subjects who give rewards and punishments also differ. It can be said that small to individuals, large to a country, can be regarded as the main body of the reward and punishment system. If it is difficult to determine the subject of rewards and punishments, we can establish relevant institutions and grant them specific rights according to the economic law, so that each department in the subject of rewards can form a mutually binding relationship; Secondly, any collective or individual that contributes to social and economic development can be regarded as the object of reward. As long as their contribution behavior conforms to relevant laws and regulations, and is recognized by the society or the public, they should be rewarded, and awarded according to objective facts and economic law reward system, without favoritism; Third, for those who make a certain contribution, and may get the relevant reward of the collective or individual, should be reviewed by the evaluation department for comprehensive investigation and audit. In the process of evaluation follow the objective and fair principle, and strive to safeguard the legitimate rights and interests of every subject awarded. The evaluation process requires as many people as possible to participate in order to reflect the democratic nature of the audit; Finally, the reward and punishment system can be properly supplemented or improved according to the implementation of the situation, such as reward and punishment supervision institutions can be set up according to the needs, so as to promote the fairness and legitimacy of the reward and punishment system implementation, so that each participant can get legitimate rights and interests protection.

### 4.3. The Implementation of the Reward and Punishment System of the Economic Law Should Be Improved

The implementation of economic law reward and punishment system is more diverse, including not only material aspects, but also spiritual aspects. Among them, the material rewards for contributors include credit privileges, bonuses and tax exemptions, while the spiritual rewards include honorary titles or certificates. These diversified ways facilitate the smooth implementation of the reward and punishment system. However, some reward and punishment methods are not specific enough, and need to be further refined and supplemented according to needs, so as to improve the feasibility of the implementation of reward and punishment system.

## 5. Conclusion

Despite the economic law research has been involved in a lot of "legal thinking", and always in the process of economic law theory draws on a large number of outstanding achievements in the jurisprudence, misunderstandings for economic law in the legal theory but also the lack of a clear definition and corresponding typed research, these are not conducive to the deepening of economic law theory and the improvement of the economic law system. With the theoretical research and system construction of economic law entering a new stage, it is urgent for the academic circle to have a more in-depth study on the jurisprudence in economic law and enhance the academic exchange between the economic law circle and the jurisprudence circle. Both reward system and punishment system are indispensable, both of which occupy a large proportion in economic law. In the implementation process of economic law of our country, we should use reward and punishment reasonably to promote good and punish evil. At present, the reward and punishment system in China's current economic law is not very perfect, need to be perfected from the main body of the reward and punishment system, the form of reward and punishment, so as to promote the stable development of social economy.

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