

Legalization Petition Letter from the Perspective of Social Governance Dilemma and Outlet

Huang Yuyi¹, Liu Xueping²

¹The Department of Law, Guangdong Vocational Institute of Public Administration;

²The Department of Business Administration, Guangzhou College of Technology and Business, Guangzhou

Keywords: social governance; complaints and complaints; rule of law

Abstract: The law of petitions and visits is a legal system for safeguarding the rights and interests of the people's government. Due to the influence of traditional concepts and the lack of perfect judicial mechanisms, the current situation of handling complaints involving law-related complaints and the current situation of China's comprehensive promotion There are many inconsistencies in the new situation of social governance in governing the country according to law. Therefore, based on the perspective of social governance, this paper analyzes the dilemma of the legalization of complaints and petitions, and proposes a targeted path for the implementation of legalization of petitions.

1. Introduction

With the continuous deepening of China's reform and opening up and the transformation of the economy and society, China's society has gradually entered a period of prominent contradictions among the people, and it has also aggravated the emergence of the "Hongfeng"[1]. Although China has continuously introduced various regulations and regulations on letters and visits at the national level, the current issue of "Hongfeng" in letters and visits has not been fundamentally changed and resolved, and the petition agencies are still in a state of high load operation. Therefore, strengthening the research on the construction of letters and visits and letters and visits has become the focus of current academic circles. This paper believes that to improve the system of letters and visits in China, we must start from the institutional relationship within the system[2]. Through the legalization of letters and visits, we can truly further standardize the legal aid system for letters and visits, handle the hearing system for letters and visits, etc., and finally realize the era of efficient protection of the petition system and satisfy the people. demand. This paper systematically expounds the realistic dilemma and path choice of the rule of law in the context of social governance.

2. Interpretation of complaints and complaints

The petition involving complaints is a complaint that the petitioner is dissatisfied with the actions and results of the people's court on the filing, trial, execution, etc., and uses the form of petitions outside the legal process to reflect and make appeals to the relevant departments. This shows that the complaints and petitions are letters and visits caused by litigation activities. They are aimed at resolving the original contradictions and disputes in response to the court's filing, trial and execution dissatisfaction, or adding new demands on the basis of the original interests. The petitioner can be either a party who has an interest in the case or a non-offender who has no interest, which is different from the strict definition of the parties in the procedural law.[3]

3. The necessity of legalization of petition letters and complaints under the background of social governance

3.1. Social governance order structure legislative system

The legislative system of social order structure undoubtedly plays an important role. It is a legislation based on the current social order and foreseeable development direction. Its development trend finds the norms that can be followed through its own legal system and social supply behavior. And the system has formed the order of state organs and social development. These are based on the legal starting point and standards. Therefore, the legalization system of complaints and petitions should be an order, which makes it the basis for the operation of judicial organs, administrative organs and social groups. In the case of complaints and petitions[4], the law is the guide of all actions, and regulates the behaviors. The complaints and complaints are a key special task of the current court work, and cannot be relied upon. Otherwise, they will return to the administrative governance mode dominated by human governance. The strange phenomenon of the same case.

3.2. The real needs of the legalization of complaints and petitions

The number of petitions and complaints and petitions have been reduced to varying degrees, but the impact of petitions on social governance has not only declined, but has increased year by year. The petition involving complaints is a unique political and legal phenomenon in Chinese society and an inevitable and phased product of China's social structural reform. The continuous operation of the petition system plays an important role in the construction and stability of China's social order, and there is still a need. Being able to properly handle the complaints and complaints through the rule of law is conducive to the social harmony and stability at the current stage of China, to the practice of justice for the people, to enhance the social effects, and to maintain the order and image of the court.

4. China's complaints and complaints social governance rule of law conflict

Although the petition system plays an important role in resolving social contradictions and disputes and disposing of interests[5], it is subject to the constraints of traditional ideas and the imperfect imperfections of the existing judicial system. The social governance logic to promote the vision of governing the country according to law is inconsistent and there are conflicts.

4.1. Responsibility channels and judicial procedures conflicts involving law-related complaints

Letters and visits is an administrative means of dealing with social contradictions and disputes, and has the function of judicial procedures. However[6], the existing methods of handling letters and complaints break through the judicial process and are disposed of through illegal administrative means. In addition, unlike general petitions, the law-related litigation is a legal category outside the administrative field. There are differences in the way they are handled, and there is no crossover. However, some law-related complaints are not in accordance with the legal procedures, but direct letters and visits, which is undoubtedly contrary to the governance logic of ruling the country according to law.

4.2. The method of handling complaints related to lawsuits and the conflict of social governance logic

Due to the imperfect existing petition system, there is a kind of human governance thinking in the petitioners, and they believe that as long as they attract the attention of the leaders, their petition appeals are easy to solve. Of course, we should see the positive role played by the way of thinking of human beings in solving social contradictions and safeguarding the legitimate interests of the masses of petitioners. However, the thinking of human governance has great limitations. It cannot reduce letters and visits from the roots and cannot form a long-term disposal mechanism. .

Therefore, the state vigorously advocates the rule of law thinking, let the law become the bond and safety valve for people's communication, use the rule of law to protect the legitimate interests of citizens, and maintain social order. This is the logical thinking of governance according to law.

4.3. The role of supervision and complaints related to lawsuits and the conflict of judicial authority

To a large extent, petitions involving law-related complaints can have a supervisory effect on judicial behavior, so as to regulate and adjust judicial behavior, improve the quality of judicial quality, and even curb judicial corruption. Judicial authority is the enforcement power of judicial judgments, but the purpose of petitions related to lawsuits is to use the role of supervision. In fact, the judicial decisions that have already taken effect are changed according to the meaning of the parties to the petition, regardless of whether they meet the petition request of the parties. The judicial organs are caught in a dilemma. Changing the outcome of the referee means that the judicial authority is weakened, and vice versa, leading to complaints involving the law.

5. The predicament of the status quo of legalization of complaints and complaints

5.1. There are more complaints and complaints units involved in the complaints

The Political and Legal Commission, the People's Court and the State Council have relatively independent systems, but there is no unified scheduling of complaints and petition processing schemes and methods. The processing methods involving normative documents are highly ambiguous [7]. In the case of different operating methods, it is almost impossible to resolve complaints in a unified judicial procedure. Due to the inadequacy or lack of supervision of letters and visits, letters and visits agencies at all levels have transferred the letters and visits at different levels, resulting in escalation of letters and visits, and there have been focus events such as Beijing visits. At present, many letters and visits organizations lack a unified leadership organization, and various agencies have petitions. The phenomenon pushed by the incident led to the petitioner's appeal not being responded to. Even in Beijing, there will be such a phenomenon, causing the petitioner to dissatisfaction with the government and making some anti-government violations.

5.2. Appeals and diversification of parties

At present, China's social contradictions and disputes are prominent, and the complaints and complaints related to the lawsuits tend to be pluralistic, including almost all aspects of social life. There are judicial areas such as extorting confessions by torture, unfair justice, and economic categories such as labor disputes, financial fraud, illegal fund-raising, and contract disputes, which have spread to many fields. In addition, the identity of the parties to the petition is no longer limited to the bottom-level personnel of the peasants, the urban unemployed, etc., and there have been special groups such as veterans, retired personnel, low-income households, and five-guarantee households.

5.3. Group, obvious resistance

At present, with the continuous deepening of social reforms, the interests of the group have been changed, thus inducing mass petitions. For example, illegal fund-raising[8], financial fraud, corporate restructuring, etc., are all areas of high incidence of group petition cases. In order to solve the problem of their own petitions, some of the petitioners deliberately squashed in front of the government in the special period of "two sessions" or major political activities, pulling white banners, sitting on the road, demonstrating petitions, and even hitting government departments and suicide. The purpose of confrontational means of petitioning, such as poisoning, which endangers public safety, is to pressure the relevant government departments to attract the attention of leaders and obtain the benefits of letters and visits.

5.4. The organization is costly and difficult

For the petitions, there are special letters and visits bureaus, as well as letters and visits agencies

of various departments. There are many letters and visits agencies, but the duties are overlapping but not related to each other. Moreover, the petition agencies in some departments do not undertake specific petition handling work, but only carry out regular registration, and then hand over and transfer to relevant institutions, resulting in poor expression of the interests of the petitioners. Generally speaking, the handling of complaints related to law-related complaints often involves wide-ranging, long-term, and complicated procedures. As a result, the petitions cannot be resolved in the short term, giving the petitioners an illusion that the officials are not doing the job. Wood's constant petition can be successful, which increases the difficulty of disposal. Especially for individual citizens, some people's debt calls and letters are likely to lead to family poverty and a vicious circle.

6. The perspective of social governance, the path of legalization of complaints and petitions

6.1. Strengthening the Source Governance of Letters and Visits Cases

First, we must improve the mediation mechanism for conflicts and disputes. Regularly check and visit, so that timely discovery, timely intervention, timely resolution, and timely elimination. Establish a grid-based inspection network, actively mobilize grassroots people's mediators, and stay in the households, check them one by one, and realize the joint mediation of people's mediation, administrative mediation and judicial mediation to ensure that conflicts and disputes are resolved in the early stages of germination[9].

The second is to strictly enforce the law and refuse to make a wrong case. Law enforcement officials of the judiciary must strictly enforce the law and follow the legal procedures. Every case must be able to withstand inspections, prevent the occurrence of law enforcement papers, and avoid the incentives for staying in the lawsuits.

Third, legal service personnel should actively participate in mediation. Actively advocate legal service personnel to participate in petition mediation, or go to the reception desk of letters and visits to guide the petitioners to use legal channels such as litigation to deal with problems. Expanding legal aid coverage, as long as the conditions are met, you can apply for legal aid to avoid intensifying contradictions.

The fourth is to do a good job in propaganda work. In response to the hot issues of concern to the masses, it is necessary to design the theme of law-enforcement, enhance the awareness of the rule of law, and guide the masses to act in accordance with the law, defend their rights according to law, and petition according to law.

6.2. Separation of letters and visits from legal proceedings

The separation of letters and visits and litigation is that matters with administrative attributes are disposed of in accordance with the petition regulations. Matters with legal attributes are handled in accordance with the litigation procedures. The two complement each other to ensure the different treatment of petitions of different natures and to guarantee the judicial relief rights of the petitioners. Therefore, once the petition is in the scope of the complaint, the petition agency does not need to accept the case, but it must correctly guide the petitioners to the judicial organs to express their appeals. On the contrary, the judicial organs should guide the petitioners to the relevant government departments, and open channels of communication to prevent conflicts from intensifying.

6.3. Continuous innovation of social governance system

The first is to innovate the concept of social governance. At present, the state is advancing the reform of "distribution management", which transforms the government's management functions into service functions, while other organizations must also strengthen self-management and play a role in maintaining social stability and social order. Social reform, the concept is first. There is no scientific and advanced concept to guide, and how to improve the level of social governance [10].

The second is to promote the diversified development of social governance subjects, change the government's one-size-old bureau, but the government to guide, other departments and units

actively participate, achieve the common governance of social pluralistic bodies, form the overall synergy of social governance, and promote the coordinated development of society. .

The third is to improve the ability of social governance, change the government's single governance, and stimulate the social governance capabilities of party committees, governments, and public organizations at all levels, thereby improving the operational efficiency of the entire social governance system.

6.4. Continuous innovation of letters and visits work mode

First, we must improve the level of petition legislation. As soon as possible, the "Complaint Letters and Visits Law" will be incorporated into the legislative planning of the National People's Congress, and unified legislation will be adopted to allow the law to standardize the rights and obligations of letters and visits handling agencies, handling procedures and letters and visits, determine the scope of letters and visits, establish the authority of letters and visits departments, and make their duties symmetrical.

The second is to distinguish between cases of acceptance of letters and visits. When accepting a petition case, it is necessary to distinguish the nature of the petition case and determine the accepting institution according to the nature of the case. This will not only protect the right of relief of the parties to the petition, but also improve the efficiency of the handling of petition cases. It can also include petitions involving the law-related cases into the judicial organs and handle them in accordance with legal procedures.

The third is to strengthen the standardization of letters and visits. The petition staff should abandon the thinking of the people and treat the people who are visiting as their own family and relatives, sincerely serve and work together to safeguard their rights. In the case of complaints and visits, petitioners should be disposed of according to law, giving moral care and legal guidance. It is necessary to follow the legal procedures of letters and visits, not only to fully protect the legitimate rights and interests of the parties to the petition, but also to resolutely crack down on visits, stalking, etc. Unreasonable petition phenomenon.

7. Conclusion

The petition system is a system in which the party and the government give the people legal rights and interests. Although the existing system of letters and visits still has imperfections, we believe that with the continuous acceleration of the social governance process of governing the country according to law, the petition system will be more perfect and perfect, and will better protect the rights and interests of the people.

Acknowledgment

13th Five-Year Development Plan" Projects in Philosophy and Social Science in Guangzhou in 2018: The Study on the legalization of the Complaint Letters and Visits Involved in a Lawsuit from the Perspective of Social Governance (Number: 2019GZGJ198)

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