

From Legal Empowerment to Financial Equity -- a New Way of Financial Law under the Adjustment of Income Distribution and Market Deepening

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Abstract: under the Background of Income Distribution Adjustment and Market Deepening, the Research and System Construction of Financial Law Should Effectively Respond to the Goal of Financial Equity. the Theory of Legal Authorization Provides a New Perspective and Method for the Development of Financial Law. That is, to Confirm the Rights of the Financial System through the Legal System, to Build an Effective Mechanism to Realize the Rights, and to Promote the "Right Awareness" of Market Entities. So as to Improve the Ability to Participate in Financial Market Activities and Realize Their Own Development. from Legal Empowerment to Financial Equity, We No Longer Rely on Administrative Power as a Traditional Financial Law Paradigm, But More on the Power of Market Entities to Realize Its Rights.

1. Introduction

China is in a New Transitional Period. the Market Economy is Developing to a Deeper Level, and Social Changes Are Accelerating[1]. as an Important Part of National Economy, Financial Industry Must Be Different in Realizing Comprehensive, Coordinated and Sustainable Development of Economy and Society. How to Promote the Further Development of the Financial Industry, in Order to Promote Economic Growth, At the Same Time, Optimize the Allocation of Financial Resources, Break through the Bottleneck of Economic Interaction and Social Impact of Financial Activities, and Adjust the Bottleneck of Development. Important Proposals for the Basic Financial Law[2]. under the Background of Income Distribution Adjustment and Market Deepening, Influenced by the "Management Led, Interest Oriented and Control Center" Financial Law, the Thinking of Paradigm is Somewhat Delayed, Which Seems a Little Embarrassed. in Order to Fully Adapt to the Mission of the Times and the Practical Needs of Financial Law, the Research of Financial Law and the Establishment of the System Should Not Only Realize the Balance between Financial Security and Financial Efficiency, But Also Realize the Transformation of Financial Justice. and Try to Go Beyond the Excessive Dependence on Administrative Power and Pass the Law. Empowering Creates a Corresponding Institutional Environment for Players in Different Markets to Participate in Financial Activities, Ultimately Realize Financial Assets, and Improve Their Ability to Realize Financial Rights.

2. Reflection on the Thinking Mode of Traditional Financial Law

Although China's Financial Law Has Not Reached the Stage of Unification and Legislation, It Also Has a Decentralized Legal System to Distinguish Different Financial Industries. Some Scholars Divide Financial Law into Financial Supervision Law and Financial Transaction Law. I Think Financial Law Adjusts the Vertical Regulatory Relationship and Horizontal Transaction Relationship[3]. in Addition, from the Point of View of Economic Law, It Improves the National Coordination Relationship between Financial Industry Regulation and Financial Market Regulation, and Confirms That the Financial Law System Includes Financial Institution Organization Law and Financial Regulation Law. Financial Supervision Law and Financial Management Law. the Classification of the Theoretical System Provides the Way and Direction for the Analysis of the Examples of Financial Law. in Order to Study the Application of Financial System, the Author

Tries to Find the Path of Theoretical System. the Establishment and Operation of Financial Law System Take the Characteristics of Administrative Power as the Core, and Government Agencies and Large Financial Institutions Have Absolute Advantages. Although the Structural Financial Legal System with Correct Status Strives to Reduce Financial Security and Efficiency, There Are the Following Problems.

First, in the Regulation is the Color of Led Lights. Generally Speaking, Financial Regulation Includes Government Regulation and Self-Discipline Regulation[4]. on the Other Hand, Self-Regulation is the Supervision of Industry Association Which is Composed of Market Participants of Financial Industry. However, in Terms of the Actual Situation in China, Industry Organizations Are Often Restricted by Industry Regulators. It's Easy to Say That the Government's Supervision Has Exceeded the Autonomy Limit. in Solving Financial Market Disputes, Administrative Power is in a Dominant Position, Showing a Strange Situation of Forced Weak Political Justice. in Fact, the Supervision of Financial Market Entities and Their Activities is Not the Responsibility of Government Regulators.

Table 1 World Trade Development

Years	Amount			Annual growth rate								
	1980	2000	2007	2000-2006	2000	2001	2002	2003	2004	2005	2006	2007
Service exit	3650	14928	32600	11	6.2	0.35	7.3	14.6	20	10.9	10.6	18
Service import	4024	14776	30600	10.4	6.5	1.2	5.9	14	18.9	10.6	10.3	16

The second is the concept of return in transaction. The market-oriented financial activities are beneficial to the interests. However, due to the inconsistency of the right structure of financial law, the unfairness of financial resources and the imbalance of the status of transaction entities, the concept of interests in financial transactions is formed[5]. Financial activities are no longer aimed at adjusting capital surplus and providing financial services, but are involved in the strange circle of pursuing interests. This concept of interest pursuit is part of the structural reason of financial legal system. For example, the long-term high discount phenomenon of banking industry has nothing to do with the imbalance of credit resources and unreasonable interest rate structure caused by banking monopoly. The three banks that occupy the dominant position in the market have obtained the interests formed by the system objectively, and actively strive for such interests subjectively, and maintain for the sake of obtaining the surplus interests. The concept of pursuing profit is partly due to the inadequacy of mechanism design. II. Legal empowerment and Its Enlightenment to Financial Law: a new perspective.

2.1 The Connotation and Logic of Legal Empowerment

The Commission defines legal empowerment as the law protecting the poor, and the law is used to promote their rights and interests in the state and the market. Stephen Golub argues that legal competence is another mode of transcending legal orthodoxy by using legal services or related activities to improve the ability of vulnerable people to control their own lives[6]. The reality in many developing countries, he said, is that laws aimed at improving disadvantage are often not pasted on paper unless they are pushed by vulnerable people themselves. The mode of legal authorization relies on the consciousness of the weak, and through the priority of civil society to improve their legal ability, it transfers the needs or activities of individuals or groups from the bottom to the national or government level.

Different from the traditional legal rules, legal empowerment emphasizes the identity, ability and strength of vulnerable groups and civil society groups by adjusting the legal focus and legislative concepts; the focus is not on government institutions, but on strengthening the interaction between the actual needs and preferences of the poor[7]; while promoting the rights and welfare of the poor beyond justice and administration, it pays more attention to and respects informality Local theory and practice and development of the role and role of the judicial system, the media and community organizations. China's experience is not just about transplanting the habits of developed countries.

The specific means of legal authorization include legal services and related activities. Legal services include legal consultation, mediation and arbitration, public interest litigation, legal publicity and legal assistance. Although the relevant activities are based on law, they can effectively supplement legal services to promote the relevant undertakings, mobilization, public opinion and other activities. Legal services and related activities work together to complete the procedures and implementation of legal authority.

2.2 On Financial Law from the Perspective of Legal Empowerment

First, in terms of institutional development, financial laws based on governments and institutions, or financial laws based on consumers are needed. That is to say, what kind of institutional theory should be given to financial law as the institutional norms to adjust the rights and obligations of financial market participants? This logic is mainly the basis of institutional design. To be specific, “power standard” or “correct status” financial law should adhere to and have the above analysis, China's financial law, but in order to maintain the core elements of the financial market order as the proposition of administrative power, it is not difficult to find market supervision and implement strong financial regulation on the other hand, financial institutions as the object. In order to make financial institutions get more benefits in the market, the improper mode of financial resource allocation is determined and maintained [8]. These two aspects reflect the basic position of “power” in the construction of financial legal system.

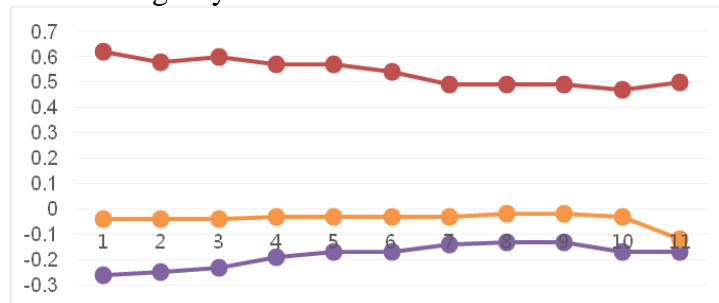


Fig.1 Advantage Index Icon of Financial Method under Marketization

Second, in the realization of rights, we should abide by or give up the tendency of liberalism in financial law. Legal patriarchy is manifested in the fact that the government can restrict its freedom or autonomy in some areas for the benefit of the citizens regardless of its will. The root of law is the assumption that people's understanding is transferred from economically reasonable people to weak and unreasonable people[9]. Patriotism in financial law is based on the difference of spontaneity, profit characteristics of financial market entities and risk control ability of investors, which is reflected in the active participation of the government in financial market and the close and extensive approach to financial market. Strict rules and regulations, such as government access to financial markets, complex and strict approval procedures, and strict interest rate control restrictions.

3. From Legal Empowerment to Financial Equity: a Possible Approach

3.1 Advocating the Concept of Social Supervision

Fair and orderly financial activities are the proper meaning of financial justice, and financial supervision should strive to meet this requirement. The traditional financial supervision is mainly administrative supervision and self-discipline regulation. Administrative supervision is based on administrative power. Due to the lack of sufficient independence, the self-discipline supervision based on industrial groups exists more or less in some administrative color.

Financial supervision, which mainly relies on administrative power, is not satisfied with the effectiveness and efficiency of regulation. On the other hand, the enthusiasm and initiative of the administrative force in implementing financial supervision, to a certain extent, is flawed. Limited activities often show a light character[10]. On the other hand, financial market activities are not only frequent, but also rely on limited administrative power for a wide range of reports. The

opposite coach is hard to grasp. According to the theory of legal authorization, relevant activities such as mobilization and public opinion can achieve the effect of encouragement.

3.2 Promoting the Development of Informal Finance

Financial equity requires all market participants to participate in financial activities. In addition, ensure their possibility of starting and availability of financial resources, and share the benefits of financial market development fairly. But the current financial system strictly controls private finance. On the other hand, private capital access to the financial market is restricted. Can't compete with formal finance. On the other hand, the monopoly structure of finance increases the cost of financial service industry. Cut or deny access to financial services. This violates the elements of financial justice. From the perspective of legal empowerment, the economic opportunities of the poor are limited, so it is difficult to obtain credit funds that use financial markets to help them develop. The law is not fair, it is formalized and implemented, whether it is implemented, or the law is not fully effective. It is difficult for poor people in that difficult situation to choose by informal financial support. Moreover, the informal economy enterprises lack the ability to enter the financial market and compete in the product market. Providing basic financial services for emerging potential operators, including savings, credit, insurance, pension and risk management tools, is an important aspect of their use of economic opportunities to improve their quality of life. In order to build a more comprehensive financial market, we need a legal system to focus on informal finance. Therefore, it is necessary for the vulnerable entities of China's financial legal system to improve their ability to ensure that it is necessary to adjust income distribution and achieve social justice. This is to reduce the legal status, transform from the underground to the ground, promote the indispensable part and useful supplement of the financial market, and provide more diversified markets for the formal financial market. Financial services. Secondly, the combination of relaxing the interest rate control and breaking the financial monopoly is to relax the interest rate control so that the capital cost reflects the normal supply and demand of the market. In addition, to prevent large formal financial institutions from controlling the market to obtain monopoly profits by cutting off financial monopoly, and to reserve living space for informal finance. The former is the basis of financial services marketization, and the latter is the guarantee of the actual market price. The combination of the two makes the acquisition cost of financial resources normal and real. Third, please define the boundary of informal finance reasonably and the boundary between the use of financial instruments, so as to put reasonable and proper informal financial activities and financial order at risk, or take other actions against property rights. To prevent informal financial activities from being considered illegal.

4. Conclusion

Under the background of current social and economic changes, the pressure of income adjustment and adjustment continues to increase. Therefore, with the development of financial market, financial stability and financial efficiency, we should ensure the fair participation and fair financial transactions of financial market participants, and the fair access of financial interests in order to realize the fair financial market that finance should pursue. In addition, market participants have achieved their own development. The rich and the poor use financial services to narrow the gap. In the new era, the research of financial law and the construction of system should effectively deal with the goal of financial assets. The theory of legal authorization provides a new perspective and method for the development of financial law. That is, to confirm the rights of the financial system through the legal system, to build an effective mechanism to realize the rights, and to promote the "right awareness" of market entities. So as to improve the ability to participate in financial market activities and realize their own development. From legal empowerment to financial equity, we no longer rely on administrative power as a traditional financial law paradigm, but more on the power of market entities to realize its rights. This may be a feasible alternative to the traditional financial law paradigm.

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