Research on the Legal Guarantee of Safety Production in Ningxia

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Abstract: The gas explosion at Fuyang Barbecue Restaurant in Xingqing District, Yinchuan City in June 2023 highlights the importance of production safety, as well as the importance of using the rule of law to prevent problems before they occur and deal with them afterwards in accordance with the law. On the basis of analyzing the current situation of the legal guarantee of safety production in Ningxia, this paper analyzes the problems that still exist and puts forward relevant suggestions, with a view to making every effort in theory to guarantee the rule of law for safety production in Ningxia.

Keywords: Production Safety; Production Safety Legal Protection; Ningxia Legal Protection of Production Safety Legal Protection.

1. Introduction

Production safety concerns the safety of people's lives and property, as well as the healthy and orderly development of the economy and society. General Secretary Xi Jinping attaches great importance to the safety of people's lives and property, and has given important instructions and demands on safety production work many times, stating that it is necessary to strengthen the rule of law and to resolve production safety issues with think in terms of the rule of law and legal means.” The tragic lessons of the gas explosion of Fuyang Barbecue Restaurant in Xingqing District of Yinchuan City in June 2023 further highlight the importance of production safety. It has become an important topic to implement the requirements of General Secretary Xi Jinping to ensure safety production by the rule of law in the academic and practical circles. By studying the current state of the legal guarantee of safety production in Ningxia, this paper analyzes the existing problems academically and theoretically with the aim of getting a glimpse of the whole picture. On that basis, relevant suggestions are put forward to make a humble contribution to the rule of law guarantee for safety production in Ningxia in terms of theory.

2. Analysis of the Current Situation of Legal Guarantees of Safety Production in Ningxia

It provides solid legal guarantees for the rule of law in safety production, covering various aspects such as legislation, law enforcement, and administration of justice. In recent years, with Xi Jinping's thought on the rule of law as its guide, Ningxia has made positive progress in safety production, laying a solid foundation of the rule of law for safety production[1].

2.1. Legislation: Continuous Improvement of the Legal Guarantee System for Safety Production

1. Construction of regulations

Currently, at the autonomous region level, the current effective regulatory system in Ningxia has formed a system with a clear hierarchy and comprehensive coverage, including 5 local regulations such as the Measures for the Implementation of the the People's Republic of China Mine Safety Law in Ningxia Hui Autonomous Region, Safety and Health Regulations of Ningxia Hui Autonomous Region, etc., 5 party regulations of the Autonomous Region, such as Party and Government with the Same Responsibility, One Post and Two Responsibilities for safety production in Ningxia Hui Autonomous Region, and Detailed Rules for the Implementation of the Safety Production Responsibility System for Party and Government Leaders in Ningxia Hui Autonomous Region, etc., 12 normative documents of the Party of the Autonomous Region, such as the Opinions of the Party Committee and People's Government of the Autonomous Region on the Implementation of Reform and Development in the Field of Safety Production, etc., 6 regulations of the People's Government of the Autonomous Region, such as the Provisions on the Investigation of Administrative Responsibility for Major Safety Accidents of the Ningxia Hui Autonomous Region, etc., and 6 normative documents of the People's Government and the Office of the Autonomous Region, such as the Measures for the Inspection and Examination of Safety Production in the Ningxia Hui Autonomous Region, etc. In August 2023, the autonomous region issued the “1+37+8” Series of Documents on Safety Production, which provides a detailed basis for the division of powers and responsibilities among various departments of production safety in the autonomous region[2].

2. Major administrative decision-making mechanisms

A number of major administrative decision matters have been determined and announced to the public. Among them, the Administrative Measures on Emergency Plans for Emergencies in the Autonomous Region was included in the 2022 catalogue of major administrative decisions of the People's Government of the Autonomous Region and public comments were solicited, and the Implementation Plan for Establishing and Improving the Monitoring and Early Warning System for Natural Disasters has been issued and implemented.

3. Optimization of the business environment under the rule of law

Factors such as the types and methods of processing administrative examination and approval matters for safety production have been adjusted. Through the “My Ningxia”
government app integrated government service platform mobile high-frequency government service list, the business environment has been further optimized and the quality of approval services has been improved.

4. List of powers

Taking the department in charge of emergency management as an example, in accordance with laws, regulations and departmental responsibilities, the guidelines for the list of powers of the emergency management system throughout the region are adjusted dynamically to ensure uniform regulation of the same matters. In a timely manner, it has reported to the Office of the organization committee of the CPC to refine and adjust the settings and responsibilities of the internal agencies of the Office, and to adjust the benchmarks for the discretionary administrative penalties for safety production. The administrative regulatory documents currently in force are sorted out into a catalogue, and disclosed to the public on the department's portal website.

2.2. Enforcement: The Level of Standardization of Administrative Law Enforcement has been Further Improved

1. Comprehensive law enforcement reform

According to the provisions of the Law on Safety in Production and other relevant laws, emergency management departments and departments in charge of agriculture, transportation and other industries all have law enforcement powers. According to relevant materials, it was discovered that the comprehensive law enforcement reform work of relevant law enforcement departments throughout the region is being further deepened[3]. For example, emergency management departments have promoted comprehensive administrative law enforcement reform for emergency management in an integrated manner by focusing on improving the overall system, strengthening the law enforcement team, innovating enforcement methods, and improving the effectiveness of law enforcement. All cities and counties (districts) have listed and set up comprehensive administrative enforcement teams for emergency management. The Department of Justice of the Autonomous Region formulated and issued the “Implementation Rules for Comprehensive Administrative Enforcement Technical Inspectors and Social Supervisors for Emergency Management in the Ningxia Hui Autonomous Region (for Trial Implementation)”, and the participation of auxiliary law enforcement personnel in emergency management and administrative enforcement work progressed in an orderly manner.

2. Implementation of the law enforcement system

Systems related to the enforcement of safety production include the “three systems” of administrative law enforcement, and the work system connecting administrative enforcement of safety production with criminal justice, etc. Taking the “three systems” of administrative law enforcement as an example, the Party Committee and government of the autonomous region attach great importance to the implementation of the “three systems” of administrative enforcement, that is, administrative law enforcement publicity, full process records, and a legal review system for major law enforcement decisions in our region. The Department of Justice was asked to organize and implement the comprehensive implementation of the three systems of administrative law enforcement as a breakthrough and an important step in upgrading the level of administrative law enforcement and transforming government functions. It was included in the regional committee of the Party Committee for the comprehensive rule of law in the autonomous region, the committee for deepening the reforms, the key tasks of the autonomous regional government, deployed in an integrated manner with the various major reforms, and incorporated in the system of assessment of the rule of law government building and in the system of appraisal of the effectiveness of the objectives[4].

3. Basic security of law enforcement

All departments with safety enforcement powers are basically able to work hard to consolidate the basic guarantees of law enforcement. For example, the development of informatization of law enforcement has been actively promoted, and all emergency management departments in districts, cities and counties have implemented online law enforcement, distributed standardized law enforcement clothing, strengthened the management of law enforcement vehicles, been equipped with protective equipment for law enforcement and law enforcement terminals, and continued to increase the security of law enforcement equipment.

2.3. Legal Popularization: Legal Popularization Education has been Further Promoted

1. Promote the “Eighth Five-Year Plan” legal popularization

According to the research, it was discovered that all relevant departments throughout the region regard safety production and the popularization of the law as an important task. The relevant departments surveyed all took publicity and education on the rule of law in safety production as a key part of legal popularization work, focusing on key links and carrying out relevant rule of law publicity and education in conjunction with key activities. Relevant law enforcement units can deepen the implementation of the legal popularization responsibility system, improve the list of legal popularization responsibility systems, establish interpretation system by case, regularly publish typical cases of administrative enforcement of safety production, and strengthen warning by case.

2. Thematic legal popularization education

Relevant departments cooperate with important time nodes for the rule of law, such as National Constitution Day, Civil Code Promotion Month, Disaster Prevention and Mitigation Day, and safety production Month, etc., to vigorously publicize laws and regulations relating to safety education. Some departments closely involved in publicizing the rule of law in safety production are also expanding publicity channels and improving the effectiveness of popularizing the law through various activities[5].

3. Public awareness of disaster prevention

By raising and integrating legal popularization activities, the Ningxia public’s awareness of disaster prevention has been further strengthened. According to statistics, a total of 148 communities throughout Ningxia were named “National Comprehensive Disaster Reduction Model Communities” by the National Disaster Reduction Commission. In response to the fact that rural residents and young people have low awareness of disaster prevention and poor ability to cope and help themselves, the “Five Advances” publicity and education activities for disaster prevention and mitigation have continued to be carried out. Through primary and secondary school training, the holding of “May 12” disaster prevention
and mitigation days, and activities such as the “May 12” Disaster Prevention and Mitigation Day, and safety production Month, etc., the public's awareness of disaster prevention has been raised.

2.4. Conflict Resolution: Promoting Timely and Steady Resolution of Contradictions and Disputes

1. Centralize investigation and resolution of conflicts
   In the process of handling contradictory disputes involving accidents, disasters, and disputes, the relevant departments should investigate and resolve them through various forms. For example, the emergency management departments of the autonomous regions have established a “daily report” system for contradictions, disputes, and hidden problems to comprehensively and thoroughly investigate and resolve factors of instability in a timely manner[6].

2. Handling of petitions and reports
   According to relevant regulations such as the Regulations on the Petition Letters, Administrative Measures on Complaints and Reporting of Letters, and Complaints and Reports, etc., departments involved in petitions and reports on production safety can handle cases of petitions and reports in a serious manner, verify and respond in accordance with legal procedures, and can handle cases reported in petitions and reports with greater efficiency and quality.

3. Power restrictions and supervision
   According to our country's laws and regulations, power restrictions and supervision of production safety include supervision in various areas such as the National People's Congress, the Chinese People's Political Consultative Conference, internal departments, and the administration of justice, etc. According to research, it was discovered that the relevant departments pay attention to various types of cases such as the National People's Congress proposals and the CPPCC proposals, and are able to handle them in a reasonable manner. In addition to this, relevant departments can respond to social concerns and promote administration in accordance with the law through annual government disclosure work, portals, new media and other channels to promptly disclose content such as laws and regulations, policy interpretations, disaster warnings, and accident warnings[7].

3. The Main Problems in the Legal Guarantee of Safety Production in Ningxia

Despite the efforts made in all aspects of the rule of law in respect of safety production in Ningxia with good results, some safety production accidents still occurred in practice, especially the tragic lessons brought by the gas explosion at the Fuyang barbecue restaurant, reflecting the fact that there are still a number of problems in the rule of law, which need to be improved.

3.1. Lack of Awareness of the Rule of Law in Production Safety
   Safety production is not only an economic issue, but also an important political issue. However, in practice, some people, including leading cadres, only treat production safety as the government's economic work. And even a small number of people and enterprises ignore the legal norms and simply pursue economic benefits, resulting in some production safety accidents that should not have occurred, violating the legitimate rights and interests of the State, the collective or others.

1. At the level of leading cadres
   A strong sense of the rule of law is one of the abilities necessary for leading cadres. However, in practice, there are a small number of leading cadres with a weak sense of the rule of law, especially the rule of law in production safety. Some leading cadres lack basic awe of Party rules, Party discipline, laws and regulations. When it comes to safety production, there is a phenomenon of simply pursuing economic benefits while ignoring legal requirements, making the rule of law relating to production safety a mere formality.

   Some leading cadres have inadequate understanding and study of laws relating to safety production. They usually pay more attention to legal knowledge closely related to their work, and only focus on the immediate future, and are more pragmatic. As a result, they have a certain understanding of laws relating to safety production, with a poor ability to use legal knowledge to guide work and solve problems. The legal knowledge and skills of leading cadres are not all the same and uneven, leading to differences in the standards for understanding the law and enforcing the law. It is also possible that they interpret the law and implement the law according to their own understanding, leading to errors in enforcement in severe cases[8].

   Part of the leading cadres didn’t investigate the original meaning and legal spirit of relevant laws and regulations such as the Law on Safety in Production, and mechanically regard the legal guarantee of safety production as the main responsibility of emergency management departments. In specific work, it has become a reason for “not taking responsibility” and evading responsibility, and “sloth administration and slack governance” emerged. Some leading cadres have ignored the requirements of legal procedures in some major decisions on production safety, and are unable to fully comply with the law and regulations.

2. At the level of enterprises and the masses
   The author conducted interviews with several heads of private enterprises. Through interviews, it was discovered that a few heads of enterprises lacked common knowledge of laws relating to production safety. Some officials were even ignorant of the “Law on Safety in Production,” let alone the relevant content involved. In fact, as a subject, the enterprise in the production safety bear important responsibility, and the understanding of the relevant laws has become a necessary path to protect the safety of production. The weak awareness of the rule of law in production safety of the person in charge will inevitably lead to the unimportance of the rule of law in production safety, which is an issue to be addressed with priority.

   With the occurrence of safety production accidents in many parts of the country, the public is aware of production safety, yet their awareness of the rule of law has not reached a corresponding level. People generally believe that safety production is part of the government's management work, and that the law only intervenes in handling safety production accidents. In fact, the law also has the function of preventing accidents before they occur. Many people do not realize that production safety is everyone's responsibility, and do not realize that the people's responsibility, such as supervision, is also an important element of the rule of law guarantee of production safety, not to mention understanding the relevant legal knowledge.
3.2. The Legal System Relating to Production Safety Needs to be Further Improved

In this section, the author mainly interviews relevant departments in agricultural production safety. The adoption of this field reflects the Law on Safety in Production and other relevant laws. There are still areas that need to be improved. Agricultural production safety mainly involves the fishery sector, schools, hospitals, communities and other places where people gather, the production, use, and safety supervision of storage sites and equipment for hazardous chemicals, flammable and explosive products, and grassland fire prevention.

According to the provisions of section 3 and 10 of the Law on Safety in Production and section 4 of the Administrative Penalty Law, etc., the right to enforce production safety includes enforcement powers such as “supervisory power,” “punishment power,” and “administrative coercion.” In cases where there are circumstances under Article 114 of the Law on Safety in Production, i.e., when an accident occurs, and in cases where the Law on Safety in Production explicitly provides for the exercise of authority by the emergency management authorities (e.g., Art. 110), the emergency management authorities shall exercise their authority.

According to most people's understanding of the existing legal provisions, production safety is generally exercised by the emergency management department, but it's not clear as to how to understand that "industry regulates industry". For example, how the Agriculture and Rural Affairs Bureau and other functional departments such as the Housing and Construction Bureau and the Market Supervision Department regulate the industry in accordance with the Law on Safety in Production, and whether or not they have the right to enforce the law, which is not particularly clear in the provisions of the Law on Safety in Production. Not only are there no clear regulations in law, but there are no authoritative practices in practice. As a result of this situation, communication and cooperation among various departments is still insufficient in the area of safety production enforcement in Ningxia. In practice, various departments are still shirking their responsibilities or enforcing the law in multiple ways, which to a certain extent is detrimental to the public interest.

3.3. The Implementation of the System is not Established, and the Level of Law Enforcement Personnel Needs to be Improved

Judging from the current state of law enforcement in some departments in Ningxia, there are a few law enforcement personnel who do not understand laws and regulations to the extent that they are not able to implement the laws very well, or even harm the legitimate rights and interests of their counterparts. Through interviews with legal practitioners, the author discovered that if the relevant departments do not thoroughly understand the law, then some workers in this department would rather not enforce the law than improperly execute the law, which is a kind of “inaction.” For example, some law enforcement officers in grass-roots governments don't even know what enforcement powers they actually have in regard to production safety. As a result, when they encounter specific cases, they don't know whether they should enforce the law, and then fail to initiate enforcement procedures. There is still a specific problem in various regions. Some leading cadres in departments related to safety production have left their jobs as soon as they are familiar with legal knowledge and business related to safety production due to personnel changes such as promotions or transfers. Newly appointed leading cadres are not familiar with laws relating to safety production, and they have to re-learn about them. As a result, the enforcement ability between before and after is inconsistent, and the level of enforcement has fluctuated[9].

4. Suggestions for Raising the Level of Legal Guarantees for Safety Production in Ningxia

In response to the many issues analyzed above, the author proposes theoretical countermeasures in terms of macroscopicity and specificity, subjectivity and objectivity, etc. as follows.

4.1. Strengthen Top-Level Design and Pay More Attention to Legal Guarantees of Production Safety

1. Comprehensively strengthen the Party's leadership

Article 3 (1) of the Law on Safety in Production clearly stipulates that safety production shall adhere to the leadership of the Communist Party of China, which regulation provides a legal basis for strengthening the Party's leadership in ensuring the rule of law in production safety. Relevant departments should always adhere to the Party's overall leadership of safety production work, including safety production and the rule of law work. Key party and government officials should effectively carry out their duties as the first person responsible, promptly study and resolve major issues relating to the establishment of the rule of law in safety production, and make every effort to promote the implementation of all tasks. In practice, strengthening the Party's leadership in the field of safety production and the rule of law is also reflected in the institutional set-up of the safety production Commission. The safety production Commission is the highest standard deliberative and coordinating body for safety production in various regions. Following the implementation of “Law on Safety in Production”, there have been cases in several parts of the country in which the safety committees have been headed by both local party and government officials as “dual directors”.

2. Improve the assessment mechanism

The effectiveness of the rule of law in production safety is incorporated into the target management assessment of the effectiveness of the organization. It is clear that the decision-making on major production safety matters in accordance with the law, the performance of duties in accordance with the law, the study of the law and the use of the law will be included in the assessment, and the results of the assessment will be used as an important basis for the selection and employment of personnel, cultivation and education, management and supervision, and incentives and constraints.

4.2. Correctly Understand Laws and Regulations and Do a Good Job in “Industry Regulating the Industry”

In response to the situation mentioned above regarding the “industry regulating the industry” and the vagueness of the legal provisions, the author suggests that, in addition to the daily supervision (including inspection and supervision,
penalties, coercion, etc.) that constitutes an accident in production safety and that is outside the law and outside the law enforcement powers of the emergency management authorities, the law enforcement powers should be exercised in accordance with the provisions of the laws, administrative rules, and regulations, as well as the terms of reference in the List of Powers and Responsibilities issued by the government of the current level, and by the departments with specific powers and responsibilities, as required by the law. If the relevant law enforcement powers are not specified in the List of Powers and Responsibilities, but the laws, regulations, and rules explicitly grant the relevant administrative penalty powers to be exercised by the agricultural and rural departments, and the said powers and functions have not been transferred to other administrative organs, the principal may, in accordance with the provisions of the laws, regulations and rules and the Law on Administrative Penalties, exercise the power to impose administrative penalties in accordance with the law.

However, when specific laws, regulations, or rules and regulations are unclear or not stipulated, judgments should be made based on specific circumstances. The author will try to explain with examples from the agricultural and rural departments. Agricultural and rural departments shall exercise enforcement powers (including administrative penalties) in accordance with the relevant provisions of the Law on Safety in Production that provide a general description of illegal acts of production safety. For example, when there is a violation of section 97 of the Law on Safety in Production, and when laws, regulations, or rules do not stipulate punishment by specific competent departments, the Agriculture and Rural Affairs Bureau may exercise enforcement powers, including administrative penalties, in accordance with the provisions of the Law on Safety in Production, in accordance with the provisions of the Law on Safety in Production, the Agriculture and Rural Affairs Bureau may, in accordance with the provisions of the Law on Safety in Production, exercise enforcement powers, including administrative penalties, in accordance with the provisions of the Law on Safety in Production. When there is a crossover of enforcement powers, it should be dealt with in accordance with the provisions of the lex specialis prevailing over the lex generalis.

4.3. Strengthen the Rule of Law Mentality and Raise Awareness of the Rule of Law Guarantees in Production Safety

In order to solve the problem of poor awareness of the rule of law in production safety, it is necessary to subjectively strengthen the rule of law literacy. At the same time, it is also necessary to promote the strengthening of the legal awareness of various subjects involved in production safety through various methods such as self-study of relevant legal knowledge and holding high-level lectures. In particular, for key subjects such as leading cadres and law enforcement personnel, their level of literacy in safety production and the rule of law directly determines the level of legal guarantees for safety production.

1. Establish a belief in the rule of law in production safety

Belief in the rule of law is an important part of guaranteeing the rule of law. It is also a bridge for leading cadres and law enforcement personnel to express their legal knowledge, legal awareness, and ideas into external qualities. The legal guarantee of production safety is no exception. Leading cadres and law enforcement personnel must first strengthen their thinking about the rule of law, use the rule of law to handle all matters relating to production safety, and be a model for respecting the law and abiding by the law. Only in this way can they play a leading role in demonstrating and ensuring that production safety laws are implemented in practice[10].

2. Learn about production safety laws and establish a legal mindset

Studying and understanding the law is a prerequisite for abiding by the law and using the law. One important prerequisite for ensuring the rule of law in production safety is that relevant subjects should consciously understand the law and master the law. It is necessary to apply the thinking in terms of the rule of law to handle matters relating to production safety. In addition to mastering the necessary legal knowledge to prevent misconduct, it is important to pay attention to procedural regulations to prevent misconduct, strictly regulate fair and civilized law enforcement to prevent misconduct, and be serious in inaction prevention. In terms of institutional mechanisms, it is necessary to formulate a system for studying laws related to production safety, establish a mechanism for normalizing learning, use relevant laws and regulations as important elements for leading cadres to learn the law, actively play the exemplary role of leading cadres in respecting the law, studying the law, abiding by the law and applying the law, and continuously improve their ability to use the thinking in terms of the rule of law and the legal means to deepen reforms, promote development, resolve conflicts, maintain stability, and deal with risks in the field of safety production.

Production safety concerns the safety of people's lives and property, as well as the healthy and orderly development of the economy and society. General Secretary Xi Jinping attaches great importance to the safety of people's lives and property, and has given important instructions and demands on safety production work many times, stating that it is necessary to strengthen the rule of law and to resolve production safety issues with think in terms of the rule of law and legal means. The tragic lessons of the gas explosion of Fuyang Barbecue Restaurant in Xingqing District of Yinchuan City in June 2023 further highlight the importance of production safety. It has become an important topic to implement the requirements of General Secretary Xi Jinping to ensure safety production by the rule of law in the academic and practical circles.

References


