

Research on Legislative Rules of Holiday System

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Abstract: *The holiday system is an important part of the holiday system in China, and it is also an important way to guarantee the rest right of workers. The specific holiday date is an important consideration for residents to make arrangements for work, study and life in advance, which needs to be scientific and reasonable, otherwise it will cause unnecessary waste. In this paper, the holidays of all citizens are taken as the research object. Firstly, the holiday system is sorted out, and the characteristics of holiday arrangements are summarized from the perspective of legal norms. Then, the existing problems are pointed out and the relevant legislative practices are discussed. Finally, the corresponding solutions are put forward.*

Keywords: *festival; Holidays; System*

1. Introduction

In our daily life, we call festivals and holidays holidays holidays. But festivals and holidays are two different concepts. "Compared with ordinary days, festivals refer to special days in social life that are customary or specially stipulated by people, have specific customs and activities and cycle through the years." There are many festivals in a country, but not all of them will become holidays. Holiday refers to a specific time for workers to rest for better production and work in accordance with relevant laws. Festivals that have a great and profound impact on the country or nation and have profound cultural connotations can only become national statutory holidays after being confirmed through relevant legislative procedures.¹

In recent years, the establishment of holidays and specific holiday arrangements have attracted more and more public attention. The report of the 19th National Congress of the Communist Party of China pointed out that "the main social contradictions in our country have been transformed into the contradiction between the people's growing needs for a better life and the unbalanced development". It can be seen that every citizen's demand and expectation for a better life will involve many aspects of social life. After the material life is satisfied, people's expectations for spiritual needs will gradually increase. Holidays are an important way to improve people's life style and health level, and are an important part of the right to rest. Holidays are not only related to whether citizens' right to rest can be effectively guaranteed, but also an important adjustment means for the government in the process of social governance. Therefore, it is of great significance to further improve the current holiday system in China for the promotion of the rule of law government and the protection of citizens' rights.

2. Characteristics of China's holiday system

With the growth of the Republic, the holiday system has been developing continuously. After the founding of the People's Republic of China, on December 23, 1949, the State Council issued *Measures for National Holidays and Remembrances* (hereinafter referred to as *Measures*), which stipulated that there were four statutory holidays for the whole people, with a total of seven days off: New Year's Day with one day off, Spring Festival with three days off, Labor Day with one day off and National Day with two days off. It was not implemented during the "Cultural Revolution". Until 1978, the *Measures* were resumed. Since then, the *Measures* have been revised three times in 1999, 2007 and 2013 respectively. The main contents are as follows: First, the festival name. On the basis of the original four holidays, three festivals reflecting Chinese traditional culture have been added, which has enhanced the role of cultural inheritance and dissemination of holidays. Second, the length of vacation. The number of holidays on Labor Day is reduced, and three traditional holidays are added at the same time, which makes the holidays more balanced. Third, the holiday time. In view of the specific holiday time of Spring Festival, it is mainly adjusted around the question of whether to have a holiday on New Year's Eve.

So far, the statutory holiday system has formed a relatively stable pattern, from the initial four holidays with seven days of holidays to seven holidays with eleven days of holidays. The current holiday has the following characteristics: First, the holiday arrangement adopts the administrative initiative as the mode. By means of administrative legislation, the State Council amended the provisions of the *Measures* and adjusted the names and time of holidays. After that, the General Office of the State Council issued a holiday arrangement in the form of a notice at the end of the year. Second, the holiday has distinctive features. Festivals include lunar calendar and solar calendar. There are four lunar festivals and three solar festivals. Holiday days include 1 day and 5 days. There are 5 festivals with 1 day off and 2 festivals with 3 days off. Third, the regulation of holidays and weekends. If the holidays of all citizens coincide with Saturdays and Sundays, they will be supplemented on working days. There are no adjustment provisions with other weekends. Since 1999, the actual holiday time will be adjusted with the adjacent weekends to form a small holiday of 3 days, 5 days or 7 days respectively.

3. Problems in the holiday system

Holiday system is an important way to protect the public's right to rest, which not only embodies the characteristics of the times of economic and social development, but also is an institutional arrangement to improve the quality of life of workers. "The holiday system in a modern country is a weather vane reflecting a country's fundamental value orientation and national spiritual state, and an important indicator reflecting the relationship between the government and the people, the state and society."ⁱⁱⁱ From the actual implementation process of the holiday system in China, there are still three shortcomings.

First, the content of the system has changed greatly, lacking the necessary certainty. The reason why social governance chooses the rule of law is that the determined characteristics are a very important consideration, which can ensure that people know the legal rules in advance and ensure the efficiency and stability of social operation. The specific regulation of holiday time is completed by two parts, one is the *Measures* formulated by the State Council, and the other is the holiday notice issued by the General Office of the State Council. From 1999 to now, the *Measures* have undergone three revisions, mainly involving the number of holidays, the time of holidays and the specific holiday dates, including the three dimensions of holidays, which will bring unnecessary troubles to people's living arrangements. The annual holiday notice of the General Office of the State Council, because the specific holiday date is the result of comprehensive adjustment of holidays and adjacent weekends, the specific holiday time of specific festivals is different every year. Therefore, the holiday system has an uncertain influence on the holiday date arrangement of specific holidays in the two dimensions of rule making and implementation. Taking the arrangement of holiday notice in 2021 as an example, the same day's May Day holiday has been adjusted for five days, while the rest days have been three days, which causes uncertainty and unpredictability of holiday adjustment.ⁱⁱ

Second, unnecessary waste of social resources. The institutional arrangement of holidays involves everyone in the whole society, and the arrangement of rules cannot be blindly seeking to meet the needs of all people. The holiday arrangement has the following three influences. First, the cost of social governance. At the end of each year, the State Council issues a notice to the lower-level administrative units, and then the provincial-level administrative units issue a notice to the lower-level administrative units. Unnecessary waste of administrative resources. Second, the cost of public living. As the notice of the arrangement of the holiday is usually issued at the end of last year, which is a short time away from New Year's Day, people's life can't make corresponding arrangements in advance. For example, people's travel, travel and some living arrangements can't be made, and the already made arrangements may have to be modified. Finally, the society pays attention to the cost. On the one hand, because the annual holiday arrangement is uncertain, it will cause the whole people to pay attention to the holiday system arrangement and waste a lot of working time. On the other hand, due to the constant feedback of public opinion in order to judge the specific effect of holiday adjustment every year when the total number of holiday days is determined, the waste of social attention resources is caused.

Third, the holiday function is single. Any laws and regulations need to have the purpose of legislation. "Legislators can effectively carry out specific legislative activities only if they have clearly defined the legislative purpose, otherwise, legislation will be redundant or will lose its direction."^{iv} In the *Measures*, Article 1 stipulates the purpose of formulating the *Measures*, that is, "to unify the holidays of the national festivals and anniversaries, these measures are formulated."^v This method was first formulated and implemented in 1949. Because of the inconsistency between the names of festivals

and the provisions on holidays in different places in the early days of the People's Republic of China, the formulation of this method at that time really played a role in arranging the national annual festivals and memorial holidays in a unified way. However, after more than 70 years of development, the purpose of unifying holidays has been realized. It is imperative to adjust the legislative purpose of holidays. Legislative orientation can highlight the characteristics of the times, respond to the call of the times, pay attention to the cultural connotation and rest characteristics of holidays, and satisfy the people's yearning for a better life. At the same time, during the specific implementation of the holiday system, too much attention is paid to the economic effects of holidays, and insufficient attention is paid to the guiding role of culture.

4. Legislation practice related to holidays

This part mainly introduces and analyzes the public holiday system implemented in the United States, Japan and Hong Kong Special Administrative Region:

4.1 American legislative practice

Holiday arrangements in the United States are mainly based on the *Uniform Holiday Act of the United States* passed in 1971. Among them, in the current law, there are 11 statutory holidays for the whole public: "New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day."^{vi} In the United States, the holiday time is one day. According to the regulations, when the holiday time is Saturday, the next Friday is a statutory holiday. When the holiday time is on Sunday, the next Monday is taken as a statutory holiday. For example, June 19, the National Independence Day in June 2021, is Saturday, and Friday, June 18, the day before, is a holiday. July 4th Independence Day July 4th is Sunday, and the following Monday July 5th is a holiday.^v

4.2 Japanese legislative practice

The legal basis of Japan's holiday arrangement is *Japan's Day-wishing Law* passed in 1948. In the current law, there are 16 statutory holidays for the whole public: "New Year's Day, Adult Day, Founding Day, Spring Equinox Day, Showa Day, Constitution Day, Green Day, Children's Day, Ocean Day, Dashan Day, Respect for the Elderly, Autumn Equinox Day, Sports Day, Culture Day, Labor Thank Day and Emperor's Birth Day." The legislation of holidays is specific: First, it clarifies the relationship between holidays and Sundays. Festivals are all one-day holidays, and it is stipulated that when the holidays are on Sundays, the holidays will be adjusted backward to non-holidays. The second is to highlight the cultural significance of holidays. The selection of holidays not only pays attention to the historical and cultural connotation of festivals, but also encourages the attention to personal growth and natural environment, which plays a guiding role in national education. At the same time, in the legal provisions, the significance and purpose of the establishment of holidays are clearly defined after each holiday.^v

4.3 Legislative practice of Hong Kong Special Administrative Region

The legal basis for holiday arrangements in Hong Kong is the *General Holidays Ordinance* passed in 1947. In the current law, the statutory holidays for the whole public are listed one by one. Holiday list has two specificities: First, every holiday is a single clause, which is not classified according to the holiday name. For example, the Spring Festival holiday is divided into three items, namely (c) the first day of the lunar new year; (d) Lunar New Year's Day; (e) the third day of the lunar new year. Second, the adjustment relationship between each holiday and Sunday is clearly defined. When the holiday coincides with Sunday, the established Sunday is taken as a holiday.

From the above legislative practice, the holiday regulations not only fully consider the holiday cultural content and social development requirements, but also formulate detailed and specific holiday date arrangements to ensure the certainty of holidays. The provisions of holiday regulations on specific holiday time are very detailed. The actual holiday situation is analyzed in detail and detailed regulations are made, aiming at the situation that holidays and weekends coincide, and the holiday regulations on specific holiday dates are listed. Give full consideration to the general and special circumstances of the holiday date, and make it clear in the form of law, thus avoiding the uncertainty of the specific holiday date.

5. Relevant considerations of holiday system

As an institutional arrangement involving all citizens, when formulating the holiday system, the total number of holiday days, the name of holiday and the specific time arrangement of holiday not only reflect a country's value orientation and pursuit, but also system the government's governance style and level. When formulating the holiday system, we should consider the formulation of laws from four dimensions: politics, culture, economy and society.

5.1 Political considerations

The process of formulating legal system reflects the process of academic research and the history of political participation in our country. Holiday arrangements are related to the work and life of every employee, and are closely related to people's happiness and sense of gain, which greatly promotes people's realization of a better life. The Decision of the Central Committee of the Communist Party of China on Several Major Issues Concerning Comprehensively Advancing the Rule of Law, which was deliberated and adopted at the Fourth Plenary Session of the 18th CPC Central Committee, designed the rule of law at the top level from the whole process and all-round perspective, which fully reflected the important role of the rule of law in national governance. When standardizing the holiday system, we must make full use of the rule of law and attach great importance to the important role of the legal system in holiday arrangement. The National Holiday Office was set up in the National Tourism Administration to study and formulate holiday arrangements. Holiday system is related to the important system design of people's right to rest. In the process of system design, we must fully understand the political attributes of holidays and fully guarantee the implementation of the right to rest.

5.2 Cultural considerations

The legal system is closely related to the history and culture of our country. "Since the beginning of human society, the law itself exists among all ethnic groups and is unique to certain ethnic groups." Law is not only a description of our country's history, but also a part of our country's history. Festivals are originally an important part of the cultural awareness and historical development of our country. The modern culture of a country includes not only traditional culture, but also modern social development culture. Holidays established in various countries fully reflect the national characteristics, national development history and development value orientation. In addition to the traditional history of our country, our holiday system can choose some festivals that reflect the contemporary value orientation as holidays. When the holiday system is formulated and implemented, citizens can not only enjoy holiday leisure, but also feel and inherit culture.

5.3 Social considerations

After more than 40 years of reform and opening up, China has made rapid economic and social development. Economic and social development not only allows people to accumulate certain material wealth, but also provides material guarantee for consumption. After more than 70 years of exploration, the holiday system has provided beneficial management experience for the perfection of the rules. Since 1999, the overall promotion effect of holiday adjustment system on economy has been less than expected. Due to the centralized release of consumer demand, the corresponding market supply guarantee can not be well met, resulting in the unsatisfactory holiday experience of the people. When designing the system, we should fully consider the influence of holidays on society, and at the same time fully guarantee the right to rest, promote a virtuous circle of economy and society and enhance people's sense of gain.

6. Suggestions on the rules of holiday transfer

Although the names of statutory holidays will be adjusted, when the total number of holidays is relatively stable and the specific number of holidays is relatively stable, when formulating rules, the specific holiday date can be formed into a rule to make it clear, so that people can know the specific holiday time exactly, instead of being adjusted and made clear by the government through annual notification. Combined with the current arrangement and the implementation of holidays in the past, the specific rules of holiday adjustment are summarized, and the specific analysis is as follows.

At present, the holiday adjustment is based on holidays, and the holiday time and adjacent

weekends are adjusted to form a relatively long holiday under the condition of constant total rest time, so as to ensure the residents' long-distance leisure and entertainment needs, thus ensuring the residents' right to rest and improving their quality of life. As the number of holidays is fixed, when calculating the specific holiday date, it should be arranged according to a cycle of 7 days a week. Through the principle of crossing the bridge during holidays, the time in the holidays before and after will be adjusted to form a stable and easy-to-operate adjustment mode. Specific methods are as follows:

6.1 Holidays with a length of one day

6.1.1 The coincidence of holidays and weekends.

That is, holidays are Saturday and Sunday. In this case, the weekend can be postponed for one day.

Monday	Tuesday	Wednesday	Thursday	Friday	saturday	Sunday
					recess	recess
recess						

6.1.2 The connection between holidays and weekends.

That is, holidays are Monday and Friday. In this case, no adjustment is required.

6.1.3 The time interval between holidays and weekends is one day.

That is to say, the holidays are Tuesdays and Thursdays, so it is necessary to adjust the weekends which are far away and connect them.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
						recess
recess	recess					

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
			recess	recess	recess	

6.1.4 The time interval between holidays and weekends is two days.

That is, the holidays are Wednesdays, which should not be adjusted.

6.2 Holiday with a length of three days

6.2.1 When holidays start on Saturdays and Sundays.

Postpone the overlapping dates, and adjust them with weekends and Thursdays and Fridays which are far away.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
					recess	recess
recess	recess	recess	recess	recess	go to work	go to work

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
					go to work	recess
recess	recess	recess	recess	recess	go to work	recess

6.2.2 When holidays start on Monday, Tuesday and Wednesday. Make adjustments on one day before and after the weekend.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
					Work	recess
recess	recess	recess	recess	recess	recess	Work

6.2.3 When the holiday starts on Thursday, the overlapping dates will be postponed backward, and the front and back weekends will be adjusted one after the holiday to form a seven-day holiday.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
					recess	Work
			recess	recess	recess	recess
recess	recess	recess			Work	recess

6.2.4 When the starting time of the holiday is Friday, the overlapping dates will be postponed backward, and the front and back weekends will be adjusted one after the holiday to form a seven-day holiday.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
					recess	go to work
				recess	recess	recess
recess	recess	recess	recess		go to work	recess

7. Suggestions on holiday system

Article 43 of the *Constitution of the People's Republic of China* stipulates that "workers of the People's Republic of China have the right to rest." Holidays are not only an organic part of guaranteeing the right to rest, but also should fully consider the factors of economic, cultural and social development. The following is an analysis from four aspects.

7.1 Guarantee the certainty of holiday date.

The legislation of holidays is not only to unify holidays, but also to guarantee the right to rest. Holidays are, in the final analysis, holidays, which should be arranged according to workers' working and rest time, so as to ensure reasonable arrangement of workers' rest time. One of the most important issues is how to deal with the relationship with Saturday and Sunday. Saturday and Sunday is a rest system widely practiced in the world, and it is a framework arrangement for workers' rest time. When making specific arrangements for holidays, we should give full consideration to the arrangement of system convergence. First, the holidays should be set on Monday or Friday. In this way, the holiday schedule can be well combined with the weekly weekends, so as to form a mechanism vacation system similar to weekends. The second is to define the specific holiday adjustment rules, comprehensively consider the number of holidays and the specific holiday time, and form the rules for the adjustment of weekends, and then define the specific holiday time.

7.2 Fully consider the cultural significance of holidays.

The most important thing in setting holidays is the intrinsic meaning of holidays. According to the focus of social development in different periods, some traditional holidays can be added, such as Confucius' birthday anniversary, Double Ninth Festival and so on. At the same time, major policies and development directions of the Party and the country can also be set as important holidays. As the current development concepts and major policies can be distributed to different months of the year, setting them as holidays can not only make the distribution of holidays more balanced, but also give better play to the cultural guiding function of holidays. For example, August's "Dashan Festival", which was established in the Japanese law amendment in 2014, can not only arouse the society's attention to the natural environment, but also balance the number of holidays in each month.

7.3 Give full play to the advantages of the government and individuals.

Everyone has different needs and arrangements for holidays. It is impossible to have a holiday adjustment arrangement that can satisfy everyone. Under the condition that the government clearly defines the unified holiday name and time, the combination of holiday and weekend holiday system should be improved to meet the needs of different groups for holidays as much as possible. For the specific adjustment methods, different places can adjust according to the local development reality, at the same time, make clear the right of individuals to choose their own vacation methods within the specified framework, fully mobilize the enthusiasm of the central, local and individual, and form a flexible and temperature-sensitive holiday adjustment system.

Finally, holidays should adapt to economic and social development. Holiday arrangements should be compatible with the current economic and social development. China's current holiday system includes weekends and holidays. There are 104 weekends and 11 holidays in the whole year, totaling 115 days. If the average paid vacation days of 10 days are added, "the overall holiday quantity level is equivalent to the international medium level". As the paid vacation system in China has not been fully implemented, the number of vacation days is increased at special time nodes. For example, in the event of an epidemic in 2020, under the government's policy of encouraging isolation at home, temporarily increasing some holiday days will not only not affect the economic development, but also satisfy the implementation of the policy.

8. Conclusion

The legalization of social governance has become a consensus. The rule of law is not only a mechanical system of rules, but also the embodiment of social governance ideas and wisdom, which embodies the government's value orientation. Good law is the foundation of good governance. On the basis of insight into the fireworks in the world, it should shine with the brilliance of human nature. The governance system needs not only the overall construction of the social governance framework, but also the subtle care of the law in the daily affairs closely related to people's lives in social life. With the social development, the demand for the legalization of social governance becomes more and more urgent, and it will be the only way for social development to improve the legalization of social affairs governance. The holiday system is regulated by administrative regulations, which not only reflects its own flexibility, but also reflects the certainty of rule governance. In the case of ensuring the authority and convenience of the people, more from the perspective of citizens' daily life, the certainty of the holiday date is guaranteed, so that the holiday is more predictable and certain.

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