

Legal Countermeasures for China’s “Dual Carbon” Goals in the Post-pandemic

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Abstract: Under COVID-19, the economy of global has been seriously damaged. As the pandemic becomes stable, the world enters the post-pandemic. As a result, all nations now consider economic development to be of the utmost importance. However, since resource depletion and environmental degradation are inevitable, achieving better coordination between economic and environmental development is a crucial issue. This study summarises the benefits and drawbacks of this strategy from a legal standpoint by comprehending China’s “dual carbon” goals development. It puts forward practical and effective solutions to improve China’s legal system, which is in the field of environment and energy. Finally, finds a legal path that is suitable to China’s national conditions, thereby providing a theoretical basis for the realization of China’s “dual carbon” goals, and promoting the efficient and sustainable development of China’s economy.

Keywords: post-pandemic, economic and environmental development, dual carbon, advantages and disadvantages, solutions

1. Introduction

In September 2015, the President of China Jinping Xi attended the United Nations Development Summit. He and other leaders in adopting the 2030 Agenda for Sustainable Development [1]. Therefore, China has integrated sustainable development goals into all aspects of its economic development and social life. In order to achieve green and sustainable development, China has introduced a series of measures, including the “double carbon” goals, i.e., to achieve peak carbon and carbon neutrality [1]. The societal disputes and inconsistencies are still evolving as COVID-19 comes to an end. It has been a prominent issue of discussion how to better meet the “double carbon” aims and encourage the synchronization of economic development and environmental protection. As a result, the legal system has to be improved more than before. There are still certain gaps in the precise application of China’s environmental protection legislation, despite the introduction of a number of laws. The legal system still has many flaws, particularly in the legislation and the way local governments carry out the law. That indicates that China still has a long way to go on the path to sustainable development.

2. Post-pandemic and “Dual Carbon”

2.1. Post-pandemic

The “post-pandemic” refers to the era when COVID-19 has passed, but not completely disappeared. It means that everything has returned to the previous situation as we thought, just the pandemic is sometimes fluctuating, with the possibility of small-scale outbreaks.

Under the influence of COVID-19, the economy in different countries faces severe tests. With the end of the pandemic, each country needs to revive its economy as quickly as possible. Therefore, the resources and environment have become especially important in post-pandemic. However, the development of the economy is conflicted with the environment, in China, there is a policy called “dual carbon” goals to achieve a balance between the economy and the environment.

2.2. “Dual Carbon” Goals in China

This carbon neutrality is an important goal of China’s future economic development and social transformation. China, as one of the world’s biggest growing economies, its economy is also growing rapidly. It set ambitious and wide-ranging targets called “dual carbon” goals to slow climate change, and the goals are aiming to peak carbon dioxide emissions by 2030 and achieve carbon neutrality before 2060 [2].

To achieve these goals, the government in China has legislated a series of laws and policies. In terms of the content, includes energy efficiency promotion, cleaner production, industrial adjustment, and carbon emission trading. From the perspective of adjustment mode, it includes “command-control” regulation means and incentive means based on market mechanisms. Different means play unique roles in various fields.

Regarding the law, China’s current framework for promoting “dual carbon” is primarily based on the Constitution, the Environmental Protection Law, the Renewable Energy Law, the Air Pollution Prevention and Control Law, the Circular Economy Promotion Law, the Energy Conservation Law, the Forest Law, the Grassland Law, and other laws. China has reduced carbon emissions by adopting these laws to great effect.

2.3. Impact on Carbon Resources in the Post-pandemic

Because of COVID-19, people are traveling less for their own lives and health. The businesses and factories are shutting down. As a result, less carbon is used and less carbon is emitted. There is research to approve this situation. In Xi’an in 2021, experts directly measured the concentration of carbon dioxide in the atmosphere to compare carbon emissions before and during the lockdown. The results show that the carbon dioxide concentration is 7.5% lower during the total lockdown period than during the lockdown period [3]. As the pandemic tends to end, the economy of all industries and factories begins to recover, and the population begins to move on a large scale, carbon emissions are bound to increase significantly compared with the previous two years. This also poses great challenges and requirements for the formulation of laws and policies.

3. Disadvantages in Legal Measures

3.1. Lack of Relevant Policies

Due to the brief time since the “dual carbon” policy was proposed, the concept of “dual carbon” has not been included in some regulations. For example, the “dual carbon” goals have not been included in the Forest Law and the Grassland Law.

At present, China's "dual carbon" legal system has formed a basic structure of parallel law and policy. However, in terms of the legal system, China has yet to enact legislation on climate change. It also has not promoted "dual carbon" goals at the legislative level. The relevant legal system is included energy development, energy utilization, pollution prevention, pollution control, ecological conservation, and industrial promotion. The China government has especially the relevant legislation on energy conservation and renewable energy promotion as the main fields of "dual carbon" promotion. Although the legislation in other fields involves issues related to carbon emissions, which is objectively helpful to control carbon emissions, there are many principled and guiding provisions and problems in the implementation process between the purpose and means. For example, the NPC put forward the idea of formulating comprehensive legislation to suit climate change in 2009. In terms of collaborative pollution control, although relevant policies have clearly required the collaborative treatment of greenhouse gas emissions and air pollution, it is still in the exploratory stage legally, as greenhouse gas is not regarded as a pollutant in the Air Pollution Prevention and Control Law [4]. Relevant legislations mandate the promotion of low-carbon transformation of construction in order to reduce carbon emissions in important energy sectors, which necessitates that any new industrial facilities or buildings be built in compliance with specific carbon emission criteria. Currently, the environmental impact assessment has not taken these projects' carbon emissions into account. China's National Plan on Climate Change and other pertinent policies call for expanding ecosystems' "dual carbon" in order to protect the environment. However, the legislative purposes of the Forest Law, Natural Protected Areas Law, or Grassland Law are still being developed and do not yet include the objective of "dual carbon" [5].

3.2. Lack of Legal Constraints on Local Governments

The introduction of the policy has strengthened the management responsibilities of local governments and clarified the management fields and goals. However, the lack of legal constraints can easily lead to administrative violations that do not respect the law of economic development, which is not conducive to the sustainable promotion of the "dual carbon" goals.

The "dual carbon" strategy has an impact on how businesses and people live their everyday lives. The interests and needs of various subjects must be adequately taken into account in the policy substance. The objective is to align with the nation's and various regions' economic and social development. China has not yet established any clear guidelines for the "dual carbon" policy's formulation process. In terms of law enforcement by promoting "dual carbon", there are not only problems such as mechanization of management by policy goals but also problems such as lack of law enforcement and supervision mechanism. For example, in the rural low-carbon transition, excessive restrictions on livestock and poultry farming have increased the use of agrochemical products; However, the policy of replacing coal with gas regardless of cost is likely to make some farmers still choose to burn fuel charcoal. In terms of energy efficiency promotion, due to the rising price of thermal coal, some parts of China have experienced an "electricity shortage" for industrial production since May 2021, which has spread to residential electricity consumption, affecting the normal order of production and life [6].

3.3. Lack of Public Participation

Achieving the "dual carbon" goals is not only the task of the state and government departments but also the joint participation of the whole society. In the process of promoting the realization of the "dual carbon" goals and global climate governance, although China has formulated some relevant laws and policies, their dissemination among enterprises and the public is not strong enough. This results in the difficulty of implementing many laws and rules into concrete actions. There is still a lot

of confusion about how to translate public awareness into industrial action, how to translate national strategy into local practice, how to combine the advantages of social organizations to participate in climate governance, how to improve public awareness with a more understandable discourse system, how to unite more relevant stakeholders to participate in emission reduction, and how to spread China's story and wisdom on the international stage.

4. Improvement Measures

4.1. Improve the “Dual Carbon” Legal and Policy System

In terms of the legal system, the government should improve the relevant legislation to promote the “dual carbon” goals. As the response to climate change belongs to the superior concept of carbon peak and carbon neutrality, the “dual carbon” goals should be a key node in the response to climate change. In China, the Climate Change Law should belong to framework legislation, that is, based on setting the emission reduction system to climate change. The guiding requirements of the “dual carbon” promotion policy should be integrated into the legislative purpose. Climate change mitigation and climate change adaptation should be the basic framework of legislation [7]. The important actions of “dual carbon” to promote relevant policies will be translated into specific legal content. According to the legislative purpose of the relevant laws and the degree of association with the “dual carbon” legal system, the “dual carbon” goals can be integrated into the legislative purpose and specific system. Laws such as Clean Production Promotion Law, Renewable Energy Law, and Energy Conservation Law, and are closely related to the “dual carbon” goals, so the requirements of addressing climate change can be integrated into them. At the same time, the Energy Law and Natural Protection Area Law under the study can also be incorporated into the “dual carbon” goals. It can clarify the energy use right system, establish a low-carbon test point system, and provide the connection between relevant legal systems and specific policies.

4.2. Improve Administrative and Judicial Safeguards

In terms of administrative management, the legitimacy of administrative actions should be ensured while focusing on the realization of policy objectives. When achieving the policy goal, “one size fits all” law enforcement methods should be avoided, such as the illegal comprehensive prohibition of the production and sales of specific products. At the same time, the proportionality concept should be used to “dual carbon” management actions. The competent authorities can hone local policies and establish the basis of administrative discretion by issuing regulations or normative documents, to standardize the management behaviors, in order to improve the legal system in accordance with the needs of their own regions and under the direction of the national action for the goals. In terms of the judicial guarantee, the special response mechanism of “dual carbon” justice should be improved to provide a judicial guarantee. On the one hand, a perfect participation mechanism should be established to ensure the legality of policy formulation with legal rights and obligations and procedures. On the other hand, in terms of the specialization of environmental justice, the scope of accepting cases should be gradually expanded from pollution prevention to climate change [8].

4.3. Participation of the Whole Society

The ecological environment has public attributes. Environmental governance requires the participation of the whole society. This work can be truly promoted to operate on the track of the rule of law and achieve practical results. Legislatures and judicial organs actively assume the responsibility of popularizing the law. They should realize the full coverage of the list of responsibility systems for popularizing the law by state organs. They also should timely popularize

laws, regulations and relevant international conventions related to the “dual carbon” goals. Finally, to achieve to strengthen the effect of popularizing the law by combining law enforcement practices and judicial cases.

Driven by innovation, enterprises should vigorously promote the transformation and upgrading of the economic, energy, and industrial structure. They also should consciously abide by the relevant laws and regulations in the field of carbon emissions and carbon trading. In particular, they should give full play to the exemplary and lead role of the first online trading enterprises. In the end, industries can spread some beneficial practices to more fields and a wider range as soon as possible.

The public should develop a green and low-carbon way of production and life. It is necessary to form a good atmosphere in which everyone is responsible for realizing the “dual carbon” goals. Providing a solid foundation for realizing the “dual carbon” goal with the renewal of ideas and the change of behavior is especially important.

In addition, from the perspective of the necessity and urgency of international cooperation, addressing climate change requires the international community to form a binding system of international law rules as soon as possible. Carbon emissions and carbon trading involve the development interests of all countries. To form a reasonable system of international law rules, China can start from the following aspects. First, it must uphold multilateralism, international law as the basis, and the international system with the United Nations at its core. It should guide and encourage more countries to join these agreements while fairly applying the principle of common but differentiated responsibilities. The tasks and objectives outlined in the UN 2030 Agenda for Sustainable Development shall be carried out collaboratively by each nation [9]. The second is concentrating on how implementation will affect things. In order to partially make up for the lack of international law implementation, it is crucial to concentrate on pushing States parties to incorporate the requirements of international accords on climate change into their national development plans. Germany and Japan, for instance, have incorporated the provisions of a number of international accords into their long-term strategic plans in order to achieve the development of their economies and societies. They formulated laws on combating climate change or promoting low-carbon development, which has achieved satisfactory results. It is worth learning from China [10].

5. Conclusions

The goals for the post-pandemic “dual carbon” system and the current state of China’s carbon resources were introduced in this study. Accelerating the legislative design of the “dual carbon” system is important since, after the pandemic, carbon consumption and emissions would inevitably rise.

Then, it also explores the shortcomings of China’s legal system in the “dual carbon” goals in the post-pandemic. Although China pays more and more attention to environmental protection and the relevant laws are becoming more and more perfect, there are still some problems. Firstly, it is the lack of support for relevant laws in legislation. Secondly, it is the lack of relevant legal constraints by local governments. In the end, the legal system is the lack of knowledge of relevant laws by enterprises and the public.

As a result, China government should improve the “dual carbon” legal policy system and administrative and judicial guarantees. Besides, it should enhance the sense of participation of enterprises and the public and learn from foreign legal governance experience and lessons to achieve the goal of sustainable development.

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