

ИНСТИТУЦИОНАЛЬНАЯ ТРАНСФОРМАЦИЯ ОТ ОРГАНИЗАЦИЙ ОБЩЕСТВЕННОГО ОБЕСПЕЧЕНИЯ К СОЦИАЛЬНЫМ ПРЕДПРИЯТИЯМ: ЛОКАЛИЗАЦИЯ ИНСТРУМЕНТОВ ГОСУДАРСТВЕННОЙ ПОЛИТИКИ И ПРАВОВОГО РЕГУЛИРОВАНИЯ В КИТАЙСКОМ КОНТЕКСТЕ*

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Организации социального обеспечения, целью которых является создание рабочих мест для людей с ограниченными возможностями, - основной компонент системы социального обеспечения в Китае. В период, когда экономическая среда и формальные правила изменяются, те организации социального обеспечения, которые не могут самостоятельно, без внешней поддержки, предпринять эффективные меры для того, чтобы оставаться сильными в конкурентной борьбе, оказываются в ситуации «бутылочного горлышка», когда дальнейшее развитие затруднено. Барьерами для развития организаций социального обеспечения в Китае являются: недостаток устойчивых источников финансирования и обращения капитала, неэффективные модели управления, а также неконкурентоспособные товары и услуги. Для того чтобы перейти от стагнационных тенденций в организациях общественного обеспечения в направлении роста и превращения их в сильных игроков рынка, предлагается альтернативный путь развития. Данный путь состоит в трансформации организаций общественного обеспечения в социальные предприятия, сочетающие в себе черты коммерческих предприятий и государственных учреждений, цель которых состоит в повышении общественного благосостояния, что чрезвычайно важно. В социальных предприятиях, как некой гибридной форме организации, сочетаются эффективность бизнес-организаций при одновременной возможности создания общественных благ, как в рамках прежних организаций общественного благосостояния, что способствует беспроигрышному сотрудничеству между государством, обществом и бизнесом. Предложенный вариант развития представляется собой форму институциональной трансформации, которая направлена на стимулирование конкуренции, а также позволяет найти решение для сложных проблем, с которыми сталкиваются сегодня организации общественного обеспечения. Переход от организаций общественного обеспечения к социальным предприятиям подразумевает институциональный переход, в процессе которого должен быть изучен и локализован международный опыт законодательства в данной области. С тем чтобы исследовать процесс институциональной трансформации, выявить возможные правовые проблемы и проблемы регулирования, а также разработать рекомендации, в данной статье анализируется история развития организаций общественного обеспечения. Особое внимание уделяется существующему законодательству, государственной политике, которая проводилась на том или ином этапе исторического развития, результатам предпринятых мер регулирования, а также основным проблемам.

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INSTITUTIONAL TRANSITION FROM WELFARE ENTERPRISE TO SOCIAL ENTERPRISE: THE LOCALIZATION OF LEGISLATION AND POLICY IN CHINESE CONTEXT*

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Welfare enterprises, which are intended to create jobs for disabled people, are the core component of China's welfare system. As the economic environment and regulations change, China's welfare enterprises, which cannot take effective measures from within and emerge strong in market competition, are stuck in a bottleneck where further development is difficult. Welfare enterprises have hit the ceiling in their development for lacking sustainable sources of capital and capabilities of capital operation, inefficient management model and uncompetitive products and services. To reverse the trend of decline and grow into strong market players, the transformation from welfare enterprise to social enterprise, embracing the features of enterprise and social objectives, as an alternative is of crucial importance. As a new hybrid economic form, social enterprise combines the efficiency of businesses and the public-good nature of welfare enterprises, representing win-win cooperation among the government, society, and business sector. Such development is an institutional transformation which boosts competitiveness and tackles tough issues welfare enterprises are facing. Shifting from welfare enterprises to social enterprises means an institutional transition, during the process of which international experience in legislation shall be learned and localized. This paper analyzes the development history of welfare enterprises by taking a comprehensive look at the salient points of existing laws, policies promulgated throughout history, implementation and performance, major problems etc. so as to explore the institutional transition from welfare enterprises to social enterprises, revealing possible legal and policy problems and making suggestions.

Keywords: welfare enterprises; social enterprises; institutional transformation; competitiveness.

JEL: B52, L26, L53, M14, P21, P31.

Development of Welfare Enterprises and Revisions in Legislation

1. Nature and History of Welfare Enterprises

Welfare enterprises, unique entities in China, set up to create jobs for disabled people with partial working ability. According to regulations laid down by the Chinese government, a certain proportion of disabled employees are needed for an enterprise to be named a welfare enterprise. Such an enterprise is entitled to tax relief, for the entire amount saved is injected into the enterprise's development foundation and collective welfare foundation.

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The primary objective of welfare enterprises in China is to create decent jobs for disabled people with partial working abilities to let them have equal rights to social activities as the non-disabled. In China, the roadmap to provide disabled people with working opportunities follows the framework set by *the Law of the People's Republic of China on the Protection of Disabled Persons*, which combines a scattered approach and a centralized approach, features preferential policies and supportive or protective measures, creating multiple methods to ensure employment for the disabled. For the centralized approach, management costs are lower, policy and financial support can be better targeted at and assist the people in need. Given the huge difficulties for disabled people seeking jobs in China, welfare enterprise as the representative centralized employment entity, is one of the most important and efficient way to create employment for the disabled.

Welfare enterprises were born in China's planned economy era, which have gone through the transition from planned economy to market economy, and have undergone multiple policy changes over six decades, becoming the essential component of China's welfare system. The first welfare enterprises appeared just after the founding of the People's Republic of China. These enterprises¹ were production units that offered aids to the poor, the disabled, family members of martyrs and soldiers, and maimed soldiers. Later on, welfare enterprises have developed into public institutions that provided the disabled with jobs and engaged in production for welfare purposes. The synthesis of centralized employment and unified management paved the way for welfare enterprises to grow in a social justice and fairness. Between 1978 and 1984, China issued a series of favorable policies for such enterprises regarding income tax, loans, construction tax and value-added tax, unleashing an enthusiastic wave of building welfare enterprises at both the state level and the local level. By the end of 1984, China had 6710 welfare enterprises, hiring 116 thousand disabled people and earned 130 million yuan in profits. These three figures were 8.3 times, 4.3 times, and 2.6 times as great as those in 1978, respectively. Apart from state-funded enterprises, locally-founded ones started to mushroom, most of which are founded by the sub-districts. Since 1985, there has been a rapid expansion in the development of welfare enterprises, when the Ministry of Civil Affairs, responsible for registering and managing welfare enterprises, have provided clear guidelines for reforming welfare enterprises, calling for tremendous efforts to support and develop welfare enterprises, releasing a series of relevant laws and regulations². By 1995, China's welfare enterprises reached a peak, with 60237 of them hiring 939 thousand disabled people. These two figures were 66.5 times and 27.8 times as great as those in 1978, respectively. In 1995, these enterprises earned 4.91 billion yuan in profits, 61.4 times as much as in 1978.

2. Legal System for Welfare Enterprises

Welfare enterprises are economic entities intended to offer jobs for disabled people. Therefore, they are regulated by both *the Law of the People's Republic of China on the Protection of Disabled Persons* and policies for welfare enterprises.

Firstly, *the Law of the People's Republic of China on the Protection of Disabled Persons* was the first law in China dedicated to safeguard the rights of disabled people, including their rights to employment. According to this law, a scattered approach and a centralized approach are utilized, encouraging preferential policies, supportive or protective measures. The government and the private sector can found welfare enterprises, for example massage salons where blind people work as the centralized method. At the same time, government provides tax relief and preferential treatment in production, operation, technology, capital, supplies, and land use to (a) organizations

¹ The initial development phase of welfare enterprises lasted from 1949 to 1977.

² Quite a lot of laws and regulations were promulgated, including the *Provisional Regulations on Welfare Enterprises Hiring Disable People*, the *Provisional Method for Managing Welfare Enterprises*. And the *Law of the People's Republic of China on the Protection of Disabled Persons* was first released. Later, the *Decision on Improving Production Management of Welfare Enterprises*, the *Notice on Enhancing Annual Inspections of Welfare Enterprises*, and the *Notice on Enhancing Administrative Supervision of Welfare Enterprises and Eliminating Bogus Welfare Enterprises* etc. were promulgated.

where the proportion of disabled people reaches or exceeds a certain threshold, (b) organizations that arrange employment for disabled people in a centralized manner, and (c) self-employed disabled people. Meanwhile, the law requires local governments at the county or higher levels and relevant authorities to determine products and projects suitable for disabled people, outsourcing such products and projects to welfare enterprises on a priority basis.

Secondly, the Ministry of Civil Affairs and relevant government agencies have provided policy support to welfare enterprises when it comes to approval, management, taxation etc. In 2007, the Ministry of Civil Affairs released the *Eligibility Criteria for Welfare Enterprises*. In the same year, the Ministry of Finance and the State Bureau of Taxation jointly released the *Notice on Promoting Tax Relief for Enterprises Employing Disabled People*. These two documents carried new measures for eligibility criteria and tax relief for welfare enterprises in the following aspects. First, welfare enterprises were allowed to engage in diversified investments. The scope of welfare enterprises entitled to tax relief was extended from state-owned and collective-ownership welfare enterprises founded by the civil authorities and governments at the sub-district, village, or township level to welfare enterprises founded by all kinds of investors, regardless of their ownership systems. Second, the threshold for founding welfare enterprises was lowered. The required minimum proportion of disabled employees in welfare enterprise was reduced from 50%+ to 25%, as a measure to encourage the founding of more welfare enterprises and thereby to provide more employment for the disabled people. Third, unified conditions for tax relief were set. Unified conditions were set for reducing turnover tax and corporate income tax. The amount of tax relief was linked to the actual number of disabled people employed. For each disabled person employed, the welfare enterprise was entitled to 35 thousand yuan in tax relief each year. The amount of tax relief was no longer linked to the revenue and paid tax of the welfare enterprise. This shift from "subsidizing enterprises" to "subsidizing on a per-person basis" eliminated the problem of excessive tax relief for welfare enterprises. It reflected the principle of fair taxation and struck a balance between the interests of the state, investors, and disabled employees. Fourth, the conditions for founding welfare enterprises and the policies for managing them were made more stringent. The number of conditions for founding welfare enterprises, concerned salary payment, social security payment receipts, proof of wheelchair-accessible facilities etc., was increased from 5 to 10. Welfare enterprises were subjected to separate reviews that were intended to determine their eligibility as welfare enterprises and eligibility for tax relief, respectively. The purpose was to close any potential loopholes in tax relief, which could be exploited by bogus welfare enterprises to evade tax through actions like issuing false invoices and pretending to employ disabled people.

3. Bottlenecks and Difficulties in the Development of Welfare Enterprises

Since 1996, China's economy started to slow down because of macroeconomic control and the Asian financial crisis, resulting in seriously ineffective domestic demand, welfare enterprises thus ran into huge trouble in their operation. To facilitate the development of welfare enterprises, the government promulgated a series of favorable policies to support their restructuring. The policy adjustments in 2007 mentioned above were also intended to pull welfare enterprises out of troubled waters. However, welfare enterprises continued to decline in both quantity and quality. By 2005, only 31211 welfare enterprises remained, that was only 51.8% of the number in 1995.

The problem of welfare enterprise was caused by multiple factors. According to the original policy, as long as the proportion of disabled employees exceeded 50%, the welfare enterprise was exempt from value-added tax and income tax. While based on the new policy, for each disabled employee, the welfare enterprise received up to 35 thousand yuan in tax relief each year, which was equivalent to partial exemption from value-added tax or business tax. For income tax, an amount equal to 100% of salaries paid to disabled employees was deducted from the tax base. The original policy required

the proportion of disabled employees to exceed 50%. According to the new policy, this proportion only needed to be 25% or higher, and the amount of tax relief depended on the number of disabled employees. As a result, welfare enterprises would decide how many disabled people to employ based on actual operation. Enterprises that employed a small number of disabled people and produce highly profitable products stopped applying for benefits applicable to welfare enterprises, because the new policy meant there was significantly less room for tax relief. Some enterprises which didn't have adequate capabilities and employed fewer 10 disabled people, are no longer qualified according to the new policy and quit the ranks of welfare enterprises. This had a huge impact on the disabled people still employed, leading to a high turnover and probably the downsizing of "excess" disabled employees. As a consequence, welfare enterprises had little incentive to employ more disabled people.

In addition, welfare enterprises high relied on the government's fiscal support and unified management for so long that they lacked survival skills, did not quite understand market patterns, and failed to make their products and services competitive enough. Plus, laws and regulations constrained the development of welfare enterprises, requiring them to mainly aim at creating jobs for disabled people and assuming social responsibility, instead of letting them expand production, introduce private capital, and develop new technologies and products to suit market demand. A lack of internal vitality was also an important reason behind welfare enterprises being shut down, acquired, or changed to focus on other objectives. The number of such enterprises dropped sharply, causing difficulties for disabled people who could and wanted to work.

Competitive Institutional Logic for the Welfare System: Developing into Social Enterprises

1. Transformation of Competitive Institutional Logics

Welfare enterprises once contributed a lot to the development of the economy, society and social harmony in China, whose booming came when state support was at its peak. These enterprises were not quite competitive on the market and relied too heavily on the government's fiscal and tax policies. Plus, laws and regulations failed to unleash their internal vitality. As a result, when policies were adjusted to eliminate loopholes, laws and regulations became more stringent, the room for subsidies was squeezed, leading to a ceiling for the development of welfare enterprises and plunging them into doldrums. In order to develop in a sustainable model for welfare enterprises, a competitive institutional logic should be introduced to stimulate the internal vitality of these enterprises.

Institutional Logic is theoretically focusing on how broader belief systems shape the cognition and behavior of actors. According to Friedland and Alford, Institutions are defined as both supra organizational patterns of activity by which individuals and organizations produce and reproduce their material subsistence and organize time and space. They are also seen as symbolic systems, ways of ordering reality, thereby rendering experience of time and space meaningful (*Friedland and Alford, 1991. P. 243*). Thornton and Ocasio define institutional logics as the socially constructed, historical patterns of material practices, assumptions, values, beliefs, and rules by which individuals produce and reproduce their material subsistence, organize time and space, and provide meaning to their social reality (*Thornton and Ocasio, 2008*). Therefore, it is important to explore how hybrid organizations, which incorporate competing institutional logics such as market thinking and social objectives are internally managed in order to embody those logics.

2. Transition from Welfare Enterprises to Social Enterprises

The emergence of social enterprises has provided a feasible and helpful alternative solution when it comes to exploring the modern development path of welfare enterprises. As a new type of institutional logic, the inner value of social enterprises is that they offer a possibility of innovation in consolidating and restructuring private resources, providing a new solution to crucial social problems.

However, there has always been debate as to what a social enterprise is since their emergence. Since the development of social enterprises is closely linked to the local social and economic backgrounds, the organizational forms and development models of social enterprises in different countries tend to vary. Therefore, there have been many definitions for them. According to the Office of the Third Sector of the UK government, a social enterprise is a business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximize profit for shareholders and owners³. European Union has proposed the definition that "Social enterprise" means an enterprise whose primary objective is to achieve social impact rather than generate profit for owners and stakeholders. It operates in the market through the production of goods and services in an entrepreneurial and innovative way, and uses surpluses mainly to achieve social goals. It is managed in an accountable and transparent way, in particular by involving workers, customers and stakeholders affected by its business activity⁴. Social Enterprise Alliance of the US regards a social enterprise to be an organization or enterprise that uses commercial methods to achieve social or environmental objectives. Despite all these different definitions and diversified organizational forms, social enterprises are valued because they are effectively positioned as enterprises while having clear social objectives. Prof. J. Gregory Dees with Duke University, who was first to put forward the concept of "social enterprise", coined the famous term "social enterprise spectrum" (*Dees, 1996*), which clearly describes a social enterprise as a hybrid economic entity that engages in between not-for-profit commercial activities and has social responsibility — on the market, it uses commercial methods to get involved in competition and pursue profits by providing innovative solutions to specific social problems. However, it emphasizes social value and responsibility, of which the operation and development are not aimed at maximizing profits, but at addressing social problems. It can be understood that a social enterprise is a modern innovative enterprise that has moral blood.

A social enterprise is similar to a welfare enterprise in that it also cares about charity and the public good, devoted to resolving severe conflicts and issues of the society. It is unlike a welfare enterprise in that it does not rely heavily on government subsidies and private donations. When capital sources are limited or unstable, cutthroat competition for capital among non-profit organizations usually results in barriers to the development of themselves. How to alleviate non-profit organizations' reliance on fiscal support from the government and make them more independent has become essential for their sustainable development. Against such a backdrop, commercial operation of projects has gradually become an alternative solution for improving the survival skills of these organizations. By comparison, social enterprises are highly independent and capable of self-development. They can attract private investments, promote internal circulation of capital, and stimulate reinvestments. Therefore, they can provide innovative ideas that can help solve social problems in a sustainable, systematic and professional manner. In addition, social enterprises do not have bottlenecks that beset non-profit organizations, for example, ineffective voluntary services and a lack of professionals. As a result, social enterprises are better positioned to ensure organizational stability and sustainability. Meanwhile, social enterprises can avoid the problem of "putting profits before the public good", which exists in the process of the marketization of welfare enterprises. This can eliminate the negative impact resulting from the pursuit of profits and the maximization of corporate profits. Using commercial methods to solve social problems does not compromise the social responsibility of these enterprises and the nobleness of their missions, thus helping disabled people can be done with innovative commercial models. Actually, social enterprises are resilient in their development, flexible in the organizational structures, and adaptive to the market. The new public management movement sweeping across the world has created a

³ See: DTI (2002). Strategy for Social Enterprise. London: HM Treasury.

⁴ See: European Commission (2011). Social Business Initiative: Creating a Favorable Climate for Social Enterprises, Key Stakeholders in the Social Economy and Innovation. Brussels: European Commission.

situation featuring "a small government and a big society". The government no longer takes care of the nitty-gritty of social services. Instead, it assumes a role of a "night watchman", shifting from an omnipotent entity to one with limited functions. Therefore, in areas where private organizations can perform well or where the government is too busy to take matters into its own hands, businesses, non-profit organizations, and other private resources should be allowed to give full play to their potential and granted a certain degree of autonomy so as to push for social and economic development.

Social enterprises dedicated to employing disabled people have appeared so far in China, the soaring development of which has set a good example for welfare enterprises on the decline. Canyou Group is a high-tech social enterprise committed to creating jobs for the disabled. Its business covers software, animations, e-commerce, calling centers, electronics assembly, precision manufacturing etc. After years of development, the group has founded 32 companies, 1 charity foundation, and 8 non-profit organizations. Altogether, it has over 3700 employees, 95% of whom are disabled. In 2009, Zheng Weining, the founder of Canyou Group donated 90% of the group's shares he held and 51% of each subsidiary's shares to the Zheng Weining Charity Foundation. By doing so, he turned the group into a social-ownership enterprise. One-third of the group's profits are used for its own development, another one-third are used to pay salaries to its employees, and the remaining one-third are injected into the foundation. Profits from the foundation's investments and the subsidiaries are also used to support the development of various charities and organizations for the public good. Canyou Group has become the most typical social enterprise in China, which has a clear social objective of creating jobs for disabled people. It is also very competitive on the market when it comes to the business model, capital management, and product or service development.

Social enterprises reflect the people's appeal for social justice and equality in the process of social development, which also reflect the need for multilateral cooperation between the government, society, and business sector. As the boundaries between these three blur, a new hybrid economic form will be active in every corner of the social life. Given this trend, social enterprises, having a more favorable environment for their development, will combine resources from multiple sources and consolidate private capital to achieve good cooperation and a multiple-win situation among the market, public institutions, and civil society, furthering the development of the welfare system. Social responsibility and shared economic benefits will become the primary strategy of enterprises with long-term vision. This will be crucial for welfare enterprises transforming into social enterprises.

Legal Prospect for the Transformation

Social enterprise shall be localized in China since it is an imported concept. This must be analyzed in the context of China's actual situations, and the traditional para-social enterprises in China offer some experience. On one hand, the trend of internationalization and China's need for economic innovation must be considered. On the other hand, the continuity and uniqueness of China's social and economic development must be taken into account. Plus, compatibility with existing organizational forms matters a lot. Welfare enterprises are the most similar to social enterprises in nature, which already have a mature legal system, face concrete problems in their development, and formulate reform plans. In exploring how welfare enterprises can transform into social enterprises, the existing legal system for them should be the basis so that brilliant ideas can be brought forward for the localization of social enterprises.

First, various organizational forms should be encouraged policy-wise so as to support large welfare enterprises transforming into social enterprises. Although China's welfare enterprises are organized as enterprises, they are actually something between traditional non-profit organizations and traditional enterprises. On one hand, they rely heavily on the social security system led by the government to obtain capital. On the

other hand, they operate as enterprises to create jobs for disabled people. In the new era, welfare enterprises should transformed from "blood transfusion" model to "hematopoiesis" Model. Their objectives should not be limited to job creation but cover various issues, including the transformation of the institution and logic, profitability, competitiveness on the market etc. to motivate themselves. Private capital can be introduced to better protect the rights of disabled people and meet their needs for development. Meanwhile, favorable policies can be put in place to attract more private resources and found social organizations for the public good. The legal system should provide more support for: (a) organizations for the public good that aim at social objectives and run as enterprises, (b) organizations that are registered with business administration authorities and aim at social objectives in their operation, and (c) social organizations that use private assets to provide not-for-profit public services. This confirms these organizations' public-good nature, which are all typical examples of social enterprises localized in China. Evidently, developing into social enterprises is a valid path for welfare enterprises to transform.

Second, the system for certifying social enterprises and managing them at multiple levels is in urgent need of improvements so that it can provide a solid foundation for welfare enterprises transforming into social enterprises. As China's civil society has become stronger in recent years, crossover cooperation has become more frequent and deeper. Non-profit organizations, companies, cooperatives, and many other forms of social organizations enter the ranks of social enterprises. Their business covers a wide range, giving rise to a situation where social enterprises develop in a diversified manner. However, the charity industry, the business circle, and the government have not reached a consensus regarding social enterprises. As a result, legislation has lagged behind. The experience of the UK and Finland in legislation for social enterprises suits China. The UK, which released the *Community Interest Company Regulations*, has integrated the development of social enterprises into communities. The Finnish government has released the *Act on Social Enterprises*, which granted clear legal status to social enterprises and had explicit rules regarding organizational objectives, eligibility criteria, profit distribution, asset management etc. According to statistics, the UK has over 70000 social enterprises, contributing 24 billion pounds to its economy and employing nearly a million people⁵. In the UK, community Interest Company is a typical social enterprise, which is an enterprise that aims at community development and advocates the well-being of employees, having done well in promoting community development and local economic prosperity. *The Community Interest Company Regulations* are intended to enhance the management of such organizations, laying down detailed rules regarding approval, assets, dividend distribution, assessment etc. This series of government measures and the ensuing economic prosperity helped social enterprises in the UK boom and become the wind vane and leader for social enterprises around the globe. In Finland "social enterprise" is a registered name, therefore their operation models and development paths are comparatively similar. In 2003, the Dutch Government released the *Act on Social Enterprises*, which established standards for assessing social enterprises, including detailed rules such as one requiring enterprises to provide jobs for disabled people and long-unemployed people.

It is imperative to promulgate relevant laws and regulations to grant legal status for social enterprises, which will set a procedure for qualifying social enterprises at the institutional level and turn the abstract concept of "social enterprise" into operable rules that ensure strict management and operations. Otherwise, rights and responsibilities will be murky. In the worst-case scenario, opportunists will have the chance to pursue their own interests in the name of the public good. As shown by the development history of welfare enterprises, eligibility criteria are the foundation of all laws and regulations. Achievements and problems in multiple phases of development have all been linked to adjustments to eligibility criteria for these enterprises. It is the same for social enterprises, for they can be effectively regulated and supervised for sustainable

⁵ See: Social Enterprise UK (2015). State of Social Enterprise Survey. London: Social Enterprise UK.

development only if they are clearly defined in a legal sense, and a legal system is established for their organizational management, quantified objectives, income sources, profit distribution, bankruptcy, asset configuration, and supervision. On the premise of constraining the social enterprises as a whole, we should also be aware that the social enterprises tend to develop in a diversified way, varying greatly in terms of field, asset, profit, and scale etc. Therefore, it is suggested that they be managed by stages and multiple fields, and then the correlation shall be established between qualifications of the enterprises and the applicable policies. Even in the same business field, social enterprises shall also respect the existing laws, regulations and practices by adopting a dual management method. For example, in policies guaranteeing the employment of disabled people, the policies applicable to welfare enterprises have a substantial difference from those applicable to enterprises owned by disabled people. Social enterprises, in helping and supporting disabled people, should make new attempts in the institutional innovation while abiding by existing laws and regulations.

Third, in terms of regulations, we should proactively learn from the valuable experience in the regulation of the social welfare enterprises in order to push forward the laws and regulations of the social enterprises to develop in a systematic way. Social enterprises were off to a late start in China. Before the concept of "social enterprise" was introduced to China, there had been a variety of "para-social enterprise" organizations in China, with applicable institutionalized laws and regulations, their own specific developmental issues and reforming plans. Social enterprises combine the merits and features of commercial entities and non-profit organizations. When promulgating laws for social enterprises, legislators need refer to not only the *Regulations Governing the Registration of Social Organizations*, which are applicable to non-profit organization and regulations related to funding for the public good and charity activities but also corporate-management-related regulations such as the *Company Law* and the *Bankruptcy Law*. Take social enterprises that are aim at helping the vulnerable groups such as disabled people as an example, there has already been a relatively complete system of state laws and regulations and a mechanism for managing and supervising welfare enterprises in China. Despite existing difficulties in policies and actual practices, these are still undeniably valuable experiences. The old situation that was faced by these social welfare enterprises will inevitably affect the new social enterprises that have just entered this field.

Looking at this issue from a global perspective, it can be found that in countries where social enterprises are also prevalent, such as the UK, the US, and South Korea, new policies have been initiated or old laws have been adapted to validate the certification of the enterprises and to regulate their operation. For a rather long period of time, the previous laws and regulations for limited companies, cooperatives, and non-profit organizations have been also providing legal evidence in evaluating the development of social enterprises, making it happen that the old and the new legal systems have coexisted. This co-existence could be justified to some extent as it is the periodic product at this stage in the development of the legal system for the social enterprises. The uniqueness of social enterprise has led to the fact that the development of its legal system is a systematic project that requires cross-functional cooperation be pursued and that its legal system involve multiple-faceted interests and needs. Therefore, at the outset of promulgating laws for social enterprises, the existing legal framework shall be considered and covered in a comprehensive manner and be referenced as appropriate. Such important issues as how to develop it in an independent way while drawing something from existing laws and regulations will be bound to emerge in the process.

Fourth, in the process of welfare enterprises transforming into social enterprises, the legal system must strike a balance between protecting internal morale and enforcing regulations. Currently, there is still controversy over whether social enterprises should be given support via favorable policies. Judging from the experience of welfare enterprises, policy support from the government has exerted a far-reaching

impact on their development. Adjustments to the regulations have shifted the balance between the operating costs of welfare enterprises and their social responsibility. If they are to transform into social enterprises, this problem is even sharper. The legal system shall strike a balance between protecting internal morale and complying with external regulations. According to the social enterprise spectrum, social enterprises will position themselves between non-profit organizations and commercial organizations. For example, social enterprises in the US are more like commercial organizations, subject to laws and regulations applicable to companies, such as the *Company Law*. They face few extra restrictions on capital sources, profit distribution etc. As a result, they seldom receive tax relief from the government. In the UK, social enterprises are more like non-profit organizations, subject to detailed rules contained in the *Community Interest Company Regulations* regarding asset freezing, caps on dividends etc. Though the government does not provide tax relief, it outsources projects to social enterprises and community organizations each year on a priority basis. Plus, the government has policies to guide private capital to social enterprises. China must be clear about whether social enterprises should represent positive value that is worth upholding or form an industry that is supported by policies.

The characteristics of social enterprises determine their value and meaning in this era, the commercial gene of which with moral blood determines their nature and positioning. Considering the origin and development history of social enterprises as well as various aspects of the economy and society, social enterprises will be the best alternative to welfare enterprises and will surely have a bright future.

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