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地方法治蓝皮书

LUE BOOK OF RULE OF LAW IN LOCAL CHINA

中国地方法治发展报告

No.1 (2014)

ANNUAL REPORT ON RULE OF LAW

IN LOCAL CHINA No.1 (2014)

中国社会科学院法学研究所主编/李林田禾





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《中国地方法治发展报告 No. 1 (2014)》从地方立法、政府法治、司法改革、社会法治、未成年人保护、法治指数评估等方面,较为全面系统地总结了2014年中国各地方的法治创新成效与存在的突出问题。

总报告《2014年度中国地方法治发展及展望》从全国视野总结了各地方在人大制度、法治政府、司法改革等方面的改革措施与成效,剖析存在的问题,展望地方法治发展的前景。

蓝皮书首次重磅推出地方人大立法指数报告,以地方人大官方网站为基础,从立法工作信息公开、立法活动、立法参与和立法优化四个方面,对31个省、自治区、直辖市人大常委会的立法情况进行测评。

蓝皮书对山东省、广东省中山市等地法治建设的情况进行了分析;就政府法治、政府法律顾问、政府信息公开、征地拆迁等热点问题进行研讨;对一些地方法院司法改革、司法公开、司法网络拍卖、法庭建设等体制机制探索展开剖析。另外,信访不信法、医患纠纷、未成年人犯罪、危险驾驶等议题成为影响国家治理水准的重要因素,受到社会各界的广泛关注。2014 年地方法治蓝皮书立足一线实践的经验做法,从全国层面进行了深度的理论探讨与总结。

Abstract

Annual Report on Rule of Law in Local China No. 1 (2014), is a comprehensive and systematic summarization of the achievements and existing problems in the innovative construction of the rule of law in the fields of local legislation, construction of law-based government, judicial reform, social law, protection of minors, and assessment of the indices of the rule of law by local governments in China in 2014, covering such issues as the role of local legislation in guiding the reform, government legal advisors, land requisition and resettlement, judicial openness, judicial reform, juvenile delinquency, and the handling of cases of disclosure of government information.

The first part of the book is a report on "Local Rule of Law in China; Development in 2014 and Future Prospect", which summarizes the results achieved by and analyzes the problems existing in the reform measures taken by local governments throughout the country in the fields of the people's congress system, construction of law-based government, and judicial reform, and looks into the future development of local rule of law in China.

Another important content of the book is the Report on Indices of Legislation by Local People's Congresses in China, which is an assessment of legislative activities of the standing committees of 31 provinces, autonomous regions, and municipalities directly under the central government based on information available on the official websites of local people's congresses. The report consists of four parts; disclosure of information on legislative work, legislative activities, participation in legislation, and mechanisms for the optimization of legislation.

Based on the examination of the practice of construction of the rule of law in Shandong Province, Zhongshan City, etc., the book also discusses some hot issues relating to the construction of law-based government, which is the main content of the construction of local rule of law, including the disclosure of government information, government legal advisors, and land requisition and resettlement and

analyzes various mechanisms and systems established by local courts for the realization of judicial fairness which includes judicial reform, judicial openness, on-line judicial auction, and establishment of tribunals. Moreover, based on first-hand experiences, the book discusses and analyses from the nation-wide and theoretical perspectives some issues that have received extensive attention of society and become important indicators of the level of state governance, including people's preference for the mechanism of complaint by letter and visits rather than legal mechanism, doctor-patient disputes over medical treatment, juvenile delinquency, and the crime of dangerous driving.

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General Report

B. 1

2014 年度中国地方法治发展及展望

中国社会科学院法学研究所法治指数创新工程项目组*

摘 要:

本文梳理了2014年全国各地方在人大制度、法治政府、司法改革等方面的改革措施,总结其取得的成效与存在的问题,并就今后地方法治发展的前景和需要注意的问题提出了建议。

关键词:

2014 地方法治 立法 法治政府 司法改革

中国共产党第十八届中央委员会第三次全体会议通过的《中共中央关于全面深化改革若干重大问题的决定》提出,"推进法治中国建设","必须坚持

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依法治国、依法执政、依法行政共同推进,坚持法治国家、法治政府、法治社会一体建设"。自此,"依法治国"成为时代的最强音。此后,十八届四中全会通过了《中共中央关于全面推进依法治国若干重大问题的决定》,对依法治国作出了明确部署。

法治中国建设需要顶层设计和中央的统一安排,也应发挥地方的积极性,总结地方探索的经验成果。依法治理非今日之题,近年来,各地在中央统一领导下,已经在积极主动地探索。地方人大工作注重立法的科学性与民主化,落实人大及其常委会的重大事项决定权、监督权等;法治政府建设全面铺开,在大部门制改革、执法体制机制改革、权责清单制度推行、行政审批制度改革、重大行政决策规范、政府信息公开、在线办事等方面均有所涉及并开始向纵深发展;地方司法改革如火如荼,从阳光司法起步,到司法体制改革、法官职业化与审判权运行机制改革、司法公信力建设、法官员额制改革、人民观审团引入等,覆盖了司法制度运行的各个方面。

地方法治建设已逐步走出"摸着石头过河"的历史阶段,各地在法治框架内纷纷创新法治建设的新机制新做法,区域之间呈现良性竞争态势,使得法治建设的前景更加乐观。

一 发挥人大作用,积极引领法治建设方向

地方人大及其常委会作为地方权力机关,在法治建设中扮演着极为重要的 引领角色和监督角色。许多地方人大在立法、监督、代表工作等方面都有创新 发展。

(一) 立法工作

地方人大在立法方面的创新主要表现为立法程序、立法内容等方面的完善。立法程序是有法律法规制定权的国家机关,在制定、修改、废止法律文件中所遵循的步骤和方法。合理、完善的立法程序,既有利于立法结果充分集中、体现民意,也是提升立法质量的重要保障。

立法程序方面的创新宗旨是优化立法过程,提升立法质量。《中共中央关