

The Innovation and Contemporary Value of the Compilation of Chinese Civil Code

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Abstract. The compilation of the Civil Code has realized the systematization of our country's civil laws and regulations, and has established a unique chapter with the general rules as the command and the property rights, contracts, personal rights, marriage and family, inheritance, and tort liability structure. The Civil Code adopts a step-by-step compilation mode, which effectively coordinates the relationship between different divisions, breaks through the compilation style of the traditional civil code in the civil law system, takes the general principle of contract compilation as the general principle of debt law, and sets up a new compilation style of the civil code by independent compilation of personality rights. The Civil Code draws on public opinions, upholds legislation for the people, and establishes the principle of equal protection of property rights of all types of civil subjects. The Civil Code highlights the uniqueness of Chinese rule of law system, provides legal resources for Chinese economic system, and effectively enhances the concept of the rule of law of the whole people.

Keywords: Civil Code, Innovation, Contemporary Value.

1. Introduction

Civil law is an important law to adjust the relationship of rights and obligations between equal civil subjects. Since the reform and opening up, China has established a multi-level system of civil legal relations centered on the General Principles of Civil Law. On May 28, 2020, the Third Session of the 13th National People's Congress voted to adopt the Civil Code, opening a new chapter of the rule of law in China. The Civil Code effectively improves the governance efficiency in China's civil legal relations, provides stable and predictable legal norms for market subjects, stimulates market vitality to a greater extent, establishes the concept of private law autonomy, standardizes and limits the discretionary power of the government, and provides legal system support for the development and improvement of the market economic system.

2. Innovation of the compilation style of the Civil Code

Chinese Civil Code is a civil legal norm closely related to the development trend of the times. From the perspective of the origin of civil law, the ancient Roman law was the prototype of contemporary civil law. With the expansion of the Roman Empire, the concept of Roman law also spread to every corner of the Roman Empire[1]. And the German civil code in the 20th century pushed the civil law system to its peak. Today's society is an information society, and a civil legal system that reflects the needs of the current society needs to be formulated. For this reason, on the basis of absorbing the advantages of the civil legal systems of all countries in the world, China has formulated its legal system step by step to specifically protect the personal development rights of the people in modern society.

2.1. Adopt a stepwise codification model

The key point of codification of law is to make legal rules and institutions logically form a coherent and easier to understand system. Since the reform and opening up, China has gradually formulated the Marriage Law, the Inheritance Law, the General Principles of the Civil Law, the Adoption Law, the Guarantee Law, the Contract Law, the Property Law, the Tort Liability Law, the General Principles of the Civil Law, and other separate civil laws, which have continuously enriched and improved the civil legal system. Since 2015, China has established the legislative task of compiling the civil code step by step, that is, the General Provisions of the Civil Law shall be compiled first,

followed by the sub-provisions of the Civil Law. In March 2017, the General Provisions of the Civil Law was reviewed and promulgated, completing the first step in the compilation of the Civil Code. Since 2018, the NPC and its Standing Committee have deliberated many drafts of the Civil Code, soliciting comments and suggestions from all sectors of society. Codification is conducive to reshaping the relationship between legislation and justice [2]. Civil code in general, effectively promote the systematic current civil legal norms, streamline repetitive content in each single method, according to the practice and fill the blank of the system development, coordinate the special law of inconsistent rules, to adapt to each other, coordinate with each other, for the people provides a complete guide to protect their own rights and interests.

2.2. Use the general rules of contract as the general rules of the debt law

Contract is the basic guarantee to maintain the security and stability of market transactions. The characteristics of Chinese Civil Code in constructing the debt law system are as follows: firstly, changing the compilation mode of debt law in the civil law system, replacing the debt law with the contract law and the tort liability law. The civil code in the integration of the current "contract law" and on the basis of the tort liability act, not a separate debt method, but the debt method of relevant content set up for the contract and tort liability, the general principles, contract, three typical points of legislative model, effectively solved the problem of the debt law make up is too abstract. The second is to expand the typical contract type and increase the content of quasi-contract. In order to respond to the demand of new market transactions, four types of contracts, such as guarantee contract, factoring contract, property service contract and partnership contract, are taken as typical contract types, and causeless management and unjust enrichment are taken as quasi-contract categories. Third, the subdivision of the general rules of contract code actually exercises the function of the general rules of liability law, forming an organic whole among the typical contract, quasi-contract and tort liability, effectively balancing the relationship between the freedom of contracting and the justice of contract.

2.3. Establish personality rights as a separate category

Personality right is the basic right of human beings. In the 2004 amendment to the Constitution, the state respects and protects human rights, which was included in the text of the Constitution. The report to the 19th National Congress of the Communist Party of China (CPC) listed personality rights as protection objects along with personal rights and property rights. In the traditional civil law system, property rights are regarded as the center of legal system regulation and personality rights are ignored in different degrees. Based on the new era, the Civil Code creatively introduces the contents related to personality rights and sets up a separate category of personality rights. It not only clarifies the mature category of personality rights by enumeration, but also covers the scope of personality rights by general provisions, and constructs an open protection system of personality rights. Clear the boundary between public power and private rights, and fully balance various interests; In view of the new characteristics of the Internet era, a special chapter has been set up to protect personal information. Visible, "civil code" to set up the personality right indicates that within the civil legal system of our country further refine the basic principles of the constitution, get legal protection for personal dignity provides direct legal basis, effectively for judicial organs to provides the basis for personality right dispute, conform to the trend of our human rights protection of the world, personality right protection legislation contributed unique wisdom to the world.

3. The concept of compiling the Civil Code is innovative

Chinese Civil Code is a law that manifests rights. In this compilation of the Civil Code, rights are insisted on as the core content of the legal system, opinions from various parties are widely solicited, relevant content of personality rights is enriched, and the property rights of civil subjects are equally protected.

3.1. Adhere to the legislative concept of democratic legislation

The practice of the socialist rule of law with Chinese characteristics cannot be achieved without the extensive participation of millions of people. The construction of Chinese civil legal system originated from the Marriage Law in 1950. Since the reform and opening up, although the compilation of civil code has been started for many times, it has not taken shape due to various reasons. In recent years, the number of civil judicial cases in China has been rising, the awareness of the rule of law has been deeply rooted in people's hearts, and the compilation of the Civil Code has become the consensus of all walks of life. Law is the concentrated embodiment of the people's will. The compilation of the Civil Code, which directly regulates the daily life of hundreds of millions of people, requires adherence to the principle of democratic legislation to improve the quality of legislation. In the process of compiling the Civil Code, opinions were solicited from all sectors of society for many times, so as to ensure that the people's demands were met by legislation. In September 2018, the various sections of the Civil Code were published for the first time, and nearly 440,000 comments were received. According to statistics, a total of 1.02 million opinions and suggestions were put forward by 425,000 people in 10 public solicitations on the website.

3.2. Concern about the basic rights of each individual natural person

Montesquieu point out, "*In the motherly eyes of civil law, each individual is the whole nation*". For example, in the case of joint debt between husband and wife, the Civil Code has clarified the limits of the daily family agency, and creditors shall bear the burden of proof for debts beyond the daily needs of the family. In terms of the scope of civil subjects, the *special legal person* has been added to facilitate the participation of rural collective economic organizations and grassroots self-governing organizations in civil activities. In terms of the way of contract, in order to adapt to the complex social life mode, *other ways* are used as the backstop clause of the effective contract besides the traditional way of *offeror-commitment*. In order to ensure the security and stability of housing, aiming at the emerging housing concepts such as *same right of rent*, the lease contract system is improved and the concept of *right of residence* is clarified. Pay attention to the preferential protection of women, children and the disabled, establish the supportive relationship between family members, refine the guardianship system, and so on. It can be said that the Civil Code accurately protects the basic rights and interests of different stakeholders from all aspects and perspectives.

3.3. The principle of autonomy of private law was established, and the property rights of all kinds of civil subjects were equally protected

The autonomy of private law is the basic principle of the civil law system and the basic value guide for the civil subject to engage in civil activities. The autonomy of private law must be based on equal protection of property rights. As the saying goes, *Having permanent property has perseverance*. The Civil Code establishes the principle of private law autonomy and adopts an equal protection attitude to the property rights of the state, collectives, and private individuals and other rights holders, so that civil entities can participate in market activities with peace of mind. It is conducive to the formation of a state of honesty and credibility in the whole society, thereby effectively encouraging market transactions between different civil entities, and providing guarantee support for private innovation activities.

4. The significance and value of the Civil Code compilation

Codification is different from the enactment of codification and the simple superposition of existing laws. Instead, it integrates existing laws in a scientific and systematic way according to certain principles. The codification of the Civil Code effectively integrates the rule of law in the traditional Chinese legal system into modern social governance, stimulates the self-regulation and self-management of the market, and enables the whole society to have stable legal expectations.

4.1. It demonstrates the national characteristics and contemporary meaning of Chinese country's legal system

First, it highlights the Chinese characteristics of Chinese legislation. Since the founding of the People's Republic of China in 1949, China has gradually formulated a series of separate civil laws, including the General Principles of Civil Law, Contract Law, Property Law and Tort Liability Law, laying a solid theoretical and practical foundation for the compilation of the Civil Code. The enactment of the Civil Code is a vivid example of the Party leading the people in legislating. It fully reflects the will of the people, focuses on key social issues, safeguards the concerns and interests of the people, and achieves orderly coordination in the whole process of legislation, law enforcement and law-abiding. For example, the concept of usufructuary rights is put forward, which solves the problem of separation of ownership and use rights [3].

Second, it highlights the national characteristics of Chinese legal norms. The law code of a country is bound to bear the deep national imprint of the nation. Chinese Civil Code absorbs Chinese excellent family culture in the marriage and family section, emphasizes the maintenance of the stability of marriage relationship, protects the individual property rights of husband and wife in different ways, and advocates equal, harmonious and civilized marriage and family relations. From the perspective of ethics and morality, it strengthens the protection of good people and deeds, and uses the law to encourage and advocate people to do what is right. It can also take into account the legal restrictions that cannot cause unnecessary harm to the rescued for no reason [4].

Third, it provides Chinese solutions for the construction of the world civil law system. Chinese Civil Code is not only based on the rich practice of civil activities in China for a long time, but also widely adopted the characteristics of civil legislation in various countries in the world. It is a system of civil legal norms based on Chinese actual conditions. Taking the contract code as the core content of the debt code and the personality right as an independent part of the debt code are the great contributions of the civil code of our country, which is different from the traditional civil code of the civil law system of the continental law system, and have been widely concerned in the world.

4.2. Provide legal power to promote the modernization of the national governance system and governance capabilities

The Civil Code is the legal guarantee for the orderly and healthy development of the socialist market economy and lays the institutional foundation for the improvement of the socialist market economy system. Throughout the history of civil law in the world, the compilation of civil code is of great significance to the improvement of a country's comprehensive national strength. Chinese compilation of civil code effectively promotes the modernization of national governance system and governance capacity: First, it fixed the basic contents of the socialist economic system in the form of legal texts. Chinese basic economic system has a direct impact on the modernization of the country's governance system. The Civil Code establishes a basic economic system in which *public ownership plays a dominant role and various forms of ownership develop together*, delimits the scope of the respective roles of the market and the government, and ensures the effective linkage between the protection of private rights and freedom and the protection of public power. Some scholars pointed out that the Civil Code recognizes the status of unincorporated organizations as civil subjects, so that they can assume different rights and obligations, and provide a legal basis for effectively enhancing the governance effectiveness of social organizations [5].

Second, further promote the establishment of the concept of the rule of law in the whole society. Procedure process and makes the whole society to study the new code, in the process, otherwise there may be a legal system is not consistent, do not have a unified judicial referee phenomenon obtained, a new concept of the rule of law had passed through a "civil code" for each process, so as to promote the codex own value in moral and legal dimension is expanded.

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