

Exploring the Key Elements of the Civil Code Formulation After the Formation of the Legal System

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Abstract: Nowadays, China has formed a socialist legal system, and it is necessary to speed up the formulation of civil code work. The Civil Code not only provides the best way to achieve the realization of codification, but also ensures that judges can judge the judges in a fair and impartial manner. Based on this, in the establishment of the Civil Code, it is necessary to strictly follow the legal relationship, and formulate the Personality Rights Law, the General Principles of the Civil Law, and the General Principles of the Debt Law as soon as possible, and continuously correct and improve other relevant laws, and at the same time we need to speed up the formulation of a civil code with detailed contents and complete system.

1. Introduction

The strategic task of the socialist legal system with Chinese characteristics was formed in 2010 and basically realized. Nowadays, the core of the legal system established in China is the Constitution and the backbone of the law, including the normative documents, namely administrative and local regulations, including seven departments and three levels, whereby the market economy will construct the basic legal framework. It will help maintain a normal social and economic life order [1]. The system can better meet the requirements of social life and economic system, covering multiple fields, namely, economic, cultural, political and so on. From the perspective of civil law, the systematization and perfection of civil legislation in China marks the birth of various civil laws, thus laying a solid foundation for the formulation of civil codes.

2. The System of Civil Law Must Be a Road to Codification

2.1 the Best Way to Achieve Civilized Systematization

Systematization is the soul of codification. Standing on the formal system, codification can achieve effective integration of formal consistency, content completeness and logical self-sufficiency, especially in the guidance of specific values to help legal terms, systems and rules. The unity of the law, between the Codex and the single law, contributes to the effective formation of various smooth relationships, such as guidance and implementation, general and special. In other words, codification can reasonably arrange the legal system, which in turn will result in waste of legislative resources. For the systemic civil code, the current market regulations are unified, which can ensure the unification of the legal system to the maximum extent, and prevent various contradictions and conflicts, such as local regulations, civil laws and administrative regulations, etc., effectively avoiding multiple political exits. In turn, it helps the trading entity to determine the expectations and ensure that the market economy can be operated normally [2].

2.2 Fully Ensure that the Judge Can Make a Fair and Impartial Judgment on the Case

The Civil Code is a unified body that integrates the private law system. It can unify the judicial rules of civil trials and fully limit the judges' willingness to judge. That is, the Civil Code can provide basic refereeing rules to effectively handle civil cases and ensure the justice of justice to the utmost extent. The Civil Code is a product of systematic development to a certain stage and can provide judges with correct laws.

3. Key Elements in the Construction of the Civil Code System

3.1 Amend the General Principles of the Civil Law to make it the General Rule of the Civil Code

Although the promulgation form of the General Principles of the Civil Law is not a form of code, it focuses on the effective adjustment of the basic civil system and rights. It can cover all the contents of the general code of the Civil Code, but only adds the content of a few civil law rules according to the actual situation. It can bring out some of the functions of the Civil Code, and most of the content is basically consistent with the reality of our country. Based on this, it is necessary to take practical measures to modify and organize it, and to include it in the corresponding part of the Civil Code. That is, it is necessary to separate the common law of civil law in the General Principles of Civil Law as a general blueprint [3].

3.2 Integrate and Improve Various Civil Laws and Incorporate them into the Civil Code as A Sub-rule

In the process of enacting the "Contract Law", "Marriage Law" and other laws, it is necessary to attach great importance to the respective systems and integrity, and to surround the civil code system when carrying out systematic design. For example, the provisions on property rights protection in the Property Law, including property rights and claims of infringement, are indifferent to the coordination of the Tort Liability Law. Therefore, in the process of formulation, the laws of various ministries need to be properly revised and cannot be copied blindly.

3.3 Establish Independent Personality Rights in the Sub-rule

The independent personality right does not exist in the traditional civil law wash civil code, and it has certain deficiencies. Because the civil law is a kind of rights law, the civil law system can be established according to the civil rights system. The civil rights consist of two parts, namely Personal rights, property rights. The personal rights are mainly personality rights, but they are not separately compiled. Their rules or regulations are included in the main system, which will be dispersed in the tort liability system, which leads to the system imbalance; the property rights include two kinds, namely property rights and credit rights, which can be independent. Into the compilation. In other words, the traditional civil law pays too much attention to property rights. In order to eliminate the defects, the personality rights in the civil code need to be independently compiled, so as to better adapt to the development trend of modern civil law, not only can protect various new personal interests, but also can protect the personality concept, and get legislative and judicial recognition and protection [4].

3.4 the Independent Tort Liability Law

In the Civil Code, the Civil Law Department has always regarded the Tort Liability Law as a debt law, which can better meet the needs of modern society development and the construction of a democratic legal system, and continuously expand the scope of rights and interests guaranteed by the Tort Liability Law. However, the load function of the traditional debt law system is difficult to adapt to the needs of the times. To this end, it is necessary to separate the Tort Liability Law into an independent civil law system in the debt law system, so that it can be independently compiled, so as to effectively improve our civil law system and better improve it. Develop Tort Liability Law. As early as 2009.12.26, the legislature of our country has passed the Tort Liability Law. The viewpoint of independent compilation has actually been adopted. The Tort Liability Law can be used as a part of the Civil Code. The system of principles of diversification rules is scientific and reasonable. The establishment of a more comprehensive protection of private rights can provide sufficient space to promote the long-term development of tort liability law [5].

3.5 Establishment of the General Rules of the Debt Law

French scholar Wade clearly pointed out that the debt law is the central part of civil law. The generality of creditor's rights contributes to the integration of the debt law system. It applies to

contracts and non-contractual debts. It can find the correct position in the debt law for non-causal management, contracting negligence and other debt forms, and establish the corresponding legal rules. At the same time, in the market economy, debt is the most active factor. Once the new debt exceeds the current norm, the general rule of credit can better fill the gap, thus contributing to the effective improvement of the civil rights system.

3.6 Contents of Intellectual Property Law Outside the Civil Code

As an important part of the civil law, intellectual property law can not become an independent compilation in the Civil Code. It has extremely complex and complex content. It can be frequently revised with the continuous development and progress of science and technology. It can be used as a special law in civil law. It is stipulated separately from the Code, and the Civil Code needs to accurately identify and define the content and type of intellectual property, determine its common rules, or confirm the object of intellectual property in the civil rights object to declare that intellectual property is a civil right. In addition, the Civil Code can make scientific adjustments to the personal and property relations. As a private law, it needs to be correctly confirmed and defined. In the event of an intellectual property dispute, if there is no special fixation, the relevant provisions of the Civil Code can be applied [6] .

4. Conclusion

The formulation of a scientific civil code for the 21st century can contribute to the effective realization of the socialist legal system with Chinese characteristics. This also means that the level of civil legislation in the mainland has been raised to a new level. The codification of civil law contributes to the formation of civil law systemization, which is consistent with the legal tradition of written law in China, can better govern the country according to law, and constantly improve the socialist market economy legal system, thus greatly enhancing the legal culture. The level of development can better reflect the modernization of the rule of law. The developed civil code is advanced, complete in system and in line with national conditions. It can better develop and improve the market economy from the system, lay a solid foundation for promoting the sustainable development of the market economy, and ensure the long-term stability, the development of culture and economy in our country.

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