

Discussion on the Scientization and Systematization of Personality Rights in Civil Law System of China

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Abstract: In China's civil law system, the independent compilation of the content of personality rights is formed on the basis of the integrity of the construction system, and a new open approach for the protection of rights and interests has been created. At the same time, it also realizes the content of relevant laws compatible with the standard of justice and the code of conduct as well as the combination of legal principle and statute of personality right in aspects of prevention and relief. China's civil law system is composed of formal system and substantive system. Of which, the formal system includes the various sections of the Civil Code and their corresponding systems and rules; while the substantive system is composed of the value system of civil code. This kind of system structure is to build the civil law system with the legal relationship, especially the civil rights as the center, and integrate the personality right into the sub-rules. This construction logic is completely consistent with China's civil law system. For this purpose, this paper, through the research and analysis of the scientific system of personality rights in China's civil law system as well as the systemization of personality rights, expounds the scientific and systematic complete system of legal system structure of China's civil law system in terms of personality rights.

Keywords: Civil law system; Personality rights; System structure

1. Introduction

China's personality rights system of civil law, based on the actual and current situation, relevant legal practices in the past and with reference to international relevant legal practices, and follows with the vigorous development of social politics, economy and science and technology, and the latest development trend in the direction of the civil personality rights system, conduct innovation of many important systems of citizen's personality right. At the same time, China's civil law system has also contributed to the issues of civil personality rights legislation faced by all countries in the world. China's personality rights program of civil law, by building its scientific and systematic system, is based on resolving the relevant judicial issues in China's realities, and at the same time, on the basis of summarizing the experience of China's laws, administrative regulations and judicial interpretations, it has constructed the system to solve the problems faced by the global civil law governance system in the protection of citizens' personality rights, demonstrating Chinese wisdom and actions.

2. Analysis and Research on the Scientization of Personality Right in China's Civil Law System

2.1. China's civil law strictly distinguishes the concept of personality rights and personality

Throughout the world, we can see the distinction between personality and personality rights. In the sense of civil law, the so-called personality refers to the individual subject qualification of a citizen, which corresponds to the general civil rights; and the so-called personality right refers to the civil rights that a citizen owns as a civil subject qualification. In China's civil law system, the concept of personality and personality rights are strictly distinguished. The corresponding connotation of personality is the capacity of civil rights, but personality rights are attributed to civil rights.

The method of distinguishing the two concepts of personality right and personality in China's civil code is that the personality right in the division of the civil code separately stipulates the personality right, and it is not included in the subject qualification, but in the civil subject part. At the same time, this mode of operation conforms to the spirit and tradition of China's civil legislation.

2.2. China's civil law strictly distinguishes the concept of personality right and human rights

In the legal system, human rights are the concept of the national constitutional level, which emphasizes the legal relationship between the state and individual citizens. The human rights of individual citizens are the human

rights endowed and protected by the state. At the constitutional level, the human rights of citizens are directed to the state, and the subject of binding obligations is the relevant public authority of the state. However, the personality right is mainly presented as a concept at the level of civil law. The personality right emphasizes the legal relationship between civil subjects, and human rights at the level of applicable private law, and the limited obligation subject is the parties in the relationship of private law.

At the same time, personality right is directly protected by tort law because it is recognized by private law as the right to protect the spiritual interests of individual citizens. Studying the civil law, we can see that from the perspective of civil legal norms personality right is composed of the connotation, boundary and protection methods of individual citizen and other citizens, which does not involve the political and social rights of citizens. But the human rights we refer to may not be protected by tort law.

2.3. China's civil law stipulates the rules of personality right of legal person and illegal organizations

In China's civil law, the abbreviation and font size are included in the scope of protection in relation to the names and rights of legal persons and illegal related organizations. The so-called abbreviation refers to the abbreviation of the name of legal or illegal organization, such as CCTV, JD.COM, etc. In essence, the abbreviation does not belong to the name, so it cannot be protected by the right of name. However, in real life, acronyms also play a role in identifying legal and unincorporated organizations in a way. Legal and unincorporated organizations, which are well known to the public, should be protected.

So it is clearly stipulated in china's civil law system that, if net names, stage names and abbreviations, etc. that are well-known to the public used by others are enough to cause confusion to the public, then the designation is also protected by law as the name is. This practice of incorporating the abbreviation of the parties into the protection of name rights has important value and role in protecting the interests of legal persons and unincorporated organizations, or in blocking unfair competition.

2.4. China's civil law has clear provisions on the claim of the personality right

China's civil law clearly stipulates that for violations of the personal rights of citizens' personal rights, they shall be legally responsible for eliminating dangers, eliminating obstacles, terminating infringing damages, removing adverse effects, compensating for losses, recovering the reputation of the victim, sincere apology and other legal responsibility in respect of personality rights. This article makes a clear stipulation on the claim of the personality

right and a clear distinction between the personality right and the right of tort damages claim: the first is to consider the different faults, because the civil legal liability for tort damages is usually attributed to fault liability, and the victim needs to prove that the doer has a subjective fault. The main method of personality right relief is tort damages compensation. Of course, the liability requires faults in its constituent elements, so as to guarantee the general freedom of behavior and realize the predictability of behavior. However, the purpose of the establishment of the personality right request for the absolute right request is to give the citizens the absolute right benefits in the process of exercising the personality right. Therefore, the exercise of the right of personal claim does not require the doer to be at fault. The second is whether the prevention function of infringement of personality right is different. In the civil law, we can see that infringement damage compensation is an after-effort relief, which is the implementation of an after-effect remedy for the victim after various absolute rights have been violated. However, for the post-relief which is not completely inclined to the damage of citizen's personal right, it is more to prevent the damage of citizen's personality right beforehand. For this reason, in China's civil law system, the judicial interpretation of the request for citizen's personality right is not based on the judicial situation of the citizen's personality right after being subjected to infringement and damage, but when the citizen's personality right is hindered or may be hindered. The third is that whether the actual damage requires confirmation is different, that is, the purpose of claim of the personality right is to prevent it from happening, so it is not that the required damage has occurred. When it is found that there is a risk of damage to personality rights, citizens, the subjects of personality rights, may request the doer to stop or avoid possible violations of personality rights. Or when the infringement is occurring, even if the result of the infringement has not yet occurred, the citizen, the subject of personality rights, still has the right to ask the doer to terminate his infringement act. In China's civil law, it is clearly stated that infringement damage compensation is set up to compensate the victims of personality rights as their main purpose. Therefore, the victims need to prove that the actual damage they suffered actually occurred. When the person whose personality right has been violated can prove that it actually exists and the corresponding mental and material damage has occurred, the perpetrator who committed the infringement must bear the liability for compensation caused by the damage.

3. Analysis and Research on the Systematization of Personality Rights in China's Civil Law System

3.1. Integrity of the legal system of personality rights

In China's civil law system, the content of personality rights has been compiled independently. So the goal of improving the structure of China's civil law system has been further implemented. The civil code is a system of laws and regulations that are scientifically arranged according to its logic, that is, the typical state of written laws and regulations, and the codification of civil law is the systemization of civil law. In China's civil law: firstly, The personality rights section determines the general personality rights, and also determines the specific connotation of personality rights, such as name, portrait, designation, honor, life, privacy and body rights, etc.; Secondly, these connotations include not only the citizen's material personality right, but also the civic spirit and the nominal personality right; Thirdly, under the premise of determining the personality right, it also determines the personality interests; Fourthly, The personality rights of individual citizens can be determined during their lifetime, and the corresponding provisions on the protection of personal interests of individual citizens after death are also determined; Fifthly, with the development of the internet, China's civil law has determined the protection of citizens' offline personality rights, and has also innovatively determined the protection of personality rights in the network environment; Sixthly, in the process of exercising the personality rights of various citizens in China's civil law, the relevant legal level of protection issues are related.

3.2. China's civil law has established an open mode for the protection of rights and interests

Surveying various legal systems in the world, the subjectivity of citizen's personality right in the legal sense has been generally accepted. Therefore, since it is believed that the citizen's personality right is related to the interests of personality, only in the legal level can the citizen, namely the subject of personality right, be legitimately applied to his personality rights and interests. However, a large amount of legal practice tells us that the personality rights of citizens cannot be absolutely legalized like real rights. With the rapid development of economy and science and technology, various types of new personality interests evolved due to technological innovation are emerging in endlessly. Once the personal rights are solidified or completely eliminated in the civil law, we will not be able to provide legal protection for the new personality interests. For this reason, it is necessary to maintain the openness of the personality rights system in China's civil law system. For example, in response to the development of artificial intelligence, the methods of using individual voices of citizens are becoming more and more diversified, and it is precisely voices, such a highly recognizable human individual's identity also requires judicial protection of personality interests. Therefore, in the civil law of China, when the personality

rights of civil subjects are declared protected by law, it is also clearly pointed out: In addition to the personality rights framed in this volume, citizens also possess other personality rights and interests derived from personality dignity and personal freedom rights.

3.3. China's civil law unifies the code of conduct and the code of judgment

In China's civil law, the code of conduct requires the person subject to the code to be oriented in the content of the behavior prescribed by the code. At the same time, the rule of judicial decision refers to the objects of the application of the right of personality, the people in the legal judgment of disputes or the judicial organs. This requires that judicial adjudication must be performed in accordance with the relevant laws and regulations. On the one hand, China's civil law clearly stipulates a considerable number of codes of conduct in the personality rights. For example, China's civil law stipulates that employers, such as enterprises and institutions, are designed to prevent and stop workplace sexual harassment. Therefore, necessary prevention, complaint, and disposal measures must be taken and set up in the workplace. This article stipulates the corresponding regulations for enterprises and other institutions to formulate methods for the purpose of preventing sexual harassment in the workplace. At the same time, China's civil law also makes relevant provisions on the code of conduct, that is, a code of conduct aimed at establishing the normal relationship between people in the workplace. These legal provisions promote good social public morals and customs, in order to promote the establishment of normal human relations between work and life. On the other hand, it has also established corresponding judicial standards for judgments, which are intended to indicate the operational basis for courts to try civil disputes related to citizens' personal rights. For example, in China's civil law system, the legal provisions stipulating the right to request for personality rights, the legal provisions that should be taken into account in determining the civil liability for infringement of personality rights, and the legal provisions for mental damage compensation caused by breach of contract and so on. These legal provisions will provide convenient conditions for the court to make judicial decisions, and facilitate the judges to judge cases according to law and judicial interpretation. So it is conducive to the continuous improvement of judicial justice and judicial effectiveness. The independent compilation of personality right in China's civil law will provide the judges with convenient access to relevant laws and legal basis in judging the disputes of citizen personality right in the future, and at the same time, builds the guarantee of the unity of judicial decisions nationwide.

4. Conclusions

To sum up, civil law is in line with the development of the times, and civil law needs to keep pace with the times. With the rapid development of China's economy, the continuous improvement of people's material and cultural level and the realization of a well-off and good life, civil law need to escort the people to live with more sense of dignity, gain, happiness and security. So China has established the personality rights of the civil code, and has completed the work of positively confirming the citizens' right of personality under the judicial practice environment in an original way, in addition, the personality rights of the civil code perfectly fits the latest trend of the development of contemporary personality rights. We believe that the positive confirmation of citizens' personality rights, on the one hand, belongs to the historical necessity, and on the other hand, belongs to the foundation of solid concepts existing at this stage of historical development. Of course, in the future, we will face some problems at the theoretical level of the object to explore and discover.

References

- [1] Yang Lixin. The Civil Code stipulates that the right to life maintenance is the correctness of the content of the right to life--discussion on the denial of personality right in Civil Code. *Oriental Law*. 2020, (04), 144-158.
- [2] Fang Shaokun, Cao Xiangjian. Contribution and mission of the personality rights part (draft) under chinese civil code. *Journal of Shandong University (Philosophy and Social Sciences)*. 2019, (06), 86-100.
- [3] Yang Lixin, Li Yiwen. The difference between personality freedom and personal freedom and its value: standardization of article 774, section 2, article 784 and article 791 in the draft of the personality right volume of civil code. *Law and Economy*. 2019, (04), 16-29.
- [4] He Weimin. Research status and prospect of green organic synthesis. *Modern Chemical Research*. 2019, (01), 1-2.
- [5] Li Yadong, Hu Yongqiang, Huang Wenke, Huang Lu. Teaching research and evaluation system reform of the foundation engineering curriculum design in civil engineering majors. *The Guide of Science & Education*. 2018, (12), 130-132.