

The Influence of Civil Code on Economic Law

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Abstract. The promulgation of the "Civil Code" provides a path for the codification of other important legal departments closely related to the socialist market economy and the improvement of the socialist legal system with Chinese characteristics. However, due to the fact that the development of economic law in our country is relatively short and the economic development is changing rapidly, the current economic code is facing numerous obstacles. This article analyzes the relationship between civil law and economic law, drawing on the innovation of the content of the *Civil Code*, and puts forward new requirements for the development of the content, concept and system of economic law, and promotes the development of economic law.

1. The Significance of the Promulgation of the Civil Code

The promulgation of the *Civil Code* is of great significance to the Chinese people. It responds to the current national conditions in China from the following aspects: First, it fully considers the protection of citizens' personal rights and general personality rights. Second, more emphasis is placed on citizens' property rights. Third, it shows the requirements for mastering high-tech big data in the Internet age. Fourth, it put forward the needs of the era for the protection of the deteriorating ecological environment. Fifth, it responds to the problems of relief and protection in the era of risk. All in all, the *Civil Code* strengthens the protection of property rights and responds to the development needs of the market economy. ^[1]Judging from the content of the *Civil Code*, it has not only greatly promoted the systematic process of our country's legislation, but also strengthened the protection of property while improving the laws of the market economy. It has perfected the rules of the market economy and effectively improved the environment for civil and commercial operations^[2].

The *Civil Code* provides a reference for the codification of other important laws closely related to the socialist market economy. However, due to the relatively short development time of China's economic law and the rapid changes in economic development, the formulation of an economic code alone cannot meet the needs of the era. At present, only the former Czechoslovakia has developed an economic code in the world, which is of little reference for the construction of an economic code in our country. The promulgation of a code of economic law means that the state will interfere too much in the economic field, which is inconsistent with my country's modern rule of law concept. For the above reasons, it is not feasible to promulgate an economic code at present. ^[3]The promulgation of the "Civil Code" is more to provide ideas for the improvement of the content, concept and system of economic law.

2. The Relationship Between Economic Law and Civil Law

From 1982 to 2004, China took the road of separate civil legislation. But at that time, there was a lot of controversy in the civil law and economic law circles. The economic law circles believed that China was a planned commodity era at that time, which was based on planning and supplemented by the market. Therefore, China's economic market should be adjusted by economic law. The civil law scholars believe that although planned economy was implemented at that time, the ultimate foothold was in the commodity economy. The civil law aims to adjust the commodity economy. Therefore, China's economic market should implement civil law. The struggle between the two university factions has affected the legal development process of both sides to a certain extent. The

economics community quickly came up with a draft of the economic law contract, which caused a heavy blow to the civil code that was being drafted at that time. This kind of struggle was not until 1986, when the "General Principles of Civil Law" was promulgated to determine the scope of control by both parties, and then this influence gradually faded. Today, the relationship between civil law and economic law is more of a complementary relationship. Economic law needs to use civil law to indirectly affect the commodity economy, while civil law needs to use economic law to overcome the blindness, spontaneity and lag of the market.^[4]

2.1. The Cross Complementation on the Adjustment Object

Both economic law and civil law adjust economic relations within a certain range from a certain aspect. For example, for market transactions, economic law protects the security and fairness of transactions from the perspective of anti-unfair competition and antitrust, while civil law protects transactions through contract law. Specifically, economic law protects market order through national macro-control, which can directly restrict the private rights of market players, legally take away market players' property, make the market evenly distributed, and internalize economic external costs, thereby overcoming market failures.^[5] Civil law regulates people's market behavior through principles such as honesty and credibility, public order and good customs. Therefore, only when the two move together can we eliminate the gaps in the adjustment of a single legal department in the process of market adjustment, avoid conflicts between legal departments, and better regulate the market.

2.2. The Complementation of Personal Interests and Social Interests

As the most macro-leading in the field of economic law, the concept of economic law runs through economic law legislation, law enforcement, and justice. For a long time, recognized concepts such as social standard, appropriate state intervention, guaranteeing substantive justice, and economic freedom have been formed. Among them, the social standard is the fundamental difference between economic law and other laws, especially private law.

The government adjusts the relationship between national interests, social public interests, and personal interests through different legal departments. Civil law is based on personal interests, there is no way to effectively deal with the rational allocation of resources in the process of economic operation, so it cannot protect the weak. The *Civil Code* has provisions on social public interests, such as the principles of honesty and credibility, public order and good customs.^[6] However, the civil law's efforts to the public interest of the society are only motivated by the protection of private rights, to regulate the behavior of the perpetrators so that they do not do things that are harmful to the interests of the society. However, the administrative law is based on national interests as the leading ideology, and is characterized by orders and obedience, and cannot fully take into account the social and public interests of the group. Both the civil law and the administrative law have determined their respective areas of adjustment, which also proves that they cannot make good adjustments to the public interests of society. Therefore, it is necessary to protect social interests through economic law that pursues substantive justice, maintains fairness in the social market, and takes appropriate state intervention as its responsibility. Solve the contradiction between individual interests and social interests through state power and macro-control, create a fair—trading environment, and enable the economy to grow rapidly and steadily.

2.3. The Complementation of Formal Fairness and Substantial Fairness

Both civil law and economic law have principles of fairness. Civil law pursues formal fairness, while economic law pursues substantive fairness with differences, which is the unity of formal fairness and substantive fairness. Economic law pays more attention to the pursuit of fairness in different results on the basis of formal fairness, emphasizing that people must also assume corresponding obligations to the society when pursuing personal interests, not just to the interests of individual individuals. The formal justice pursued by civil law is indispensable for people on the road of people pursuing fairness, and the substantial fairness that economic law wants to achieve is also inseparable from taking the formal justice of civil law as the basic function.

3. The Influence of "Civil Code" on Economic Law

In the new era, facing the impact of economic globalization and the virtual economy on economic law, we can learn from the newly promulgated civil code and make adjustments to the content, philosophy and system of economic law.

3.1. Emphasize High-tech Changes in the Internet

Due to the previous legal vacancies in the regulation of the Internet, many Internet problems have not been resolved in a timely manner. The *Civil Code* has noticed that the tremendous development of the Internet will have a great impact on peoples' lives and has regulated it. This move will attract the attention of other departmental laws.^[7] The rapid development of the Internet also poses challenges to economic law. The virtual economy in the Internet refers to the economic operation mode in which the transaction product itself has no transaction value, does not participate in the production and reproduction, but can obtain value increase and decrease through the transaction, including the capital market, futures trading, and the transaction of new financial derivatives. In today's world, virtual transactions are frequent, which puts forward new requirements on the theory and content of economic law. We need to attract the attention of economic jurists and legislators, and highlight the status of virtual economy in economic law. Since the products of virtual economy transactions are conceptual products rather than actual products, their operation must be supported by artificially preset rules, which requires special system design and strong national supervision to provide guarantees. Traditional jurisprudence has neglected the proper status of the virtual economy, and the new economic law system and the content of the economic law should be included in the adjustment of the virtual economic law.

3.2. The Influence of the Green Principles on the Idea of Economic Law

In the process of compiling this *Civil Code*, in order to reflect the concept of green development, the *Civil Code* has added "green genes", stipulated "green principles", established "green systems" and "green litigation", and formed a complete system. The "Green Clause" system responds to the era's demand for environmental protection in the context of the deterioration of the ecological environment.^[8] On October 29, 2015, General Secretary Xi Jinping put forward for the first time a new development concept of innovation, coordination, greenness, openness and sharing. This new development concept has pointed out China's long-term development thinking and solved the problem of focus. This idea is bound to be closely related to the economic form of our country, so it is necessary to form a positive interaction with economic law. However, among these development concepts, the one that is most easily overlooked is green development. The market takes profit as its main goal, so few market players take the initiative to pay attention to green development. The *Civil Code* attaches great importance to environmental protection and the principle of green. This is an extension of personal interests to social interests. It is enough to cause economic law to attach importance to the green concept, so that several ideas can penetrate each other and become an organic whole. From different aspects to deal with the existing problems in my country's economy and society.^[9]

3.3. Put Forward New Requirements for the Economic Law to Regulate the Security of Market Transactions

In view of the new types of transactions in the current era, the *Civil Code* has made corresponding provisions in the contract compilation. For example, Article 151 of the *Civil Code* is aimed at the occurrence of people who gain extra benefits by unfair means in an online shop with incorrect pricing. If the composition shows fairness, the merchant can apply for the cancellation of the contract. These regulations ensure the safety of transactions. Today's world is full of risks, and the *Civil Code* protects transaction security from the perspective of personal commodity transactions. The transaction security here is dynamic transaction security, with individualism as the core, and equivalent exchanges and benevolent transactions as its main manifestations. However, with the continuous development of the commodity economy, there are still obvious deficiencies in the

regulation of transaction security by the *Civil Code* alone, which is mainly reflected in the weakening of some legal externalities and anti-market behaviors, which requires economic law to carry out adjustment.^[10]

The security concept in economic law is that the state replaces individuals and assumes the protection and responsibility of national interests, personal interests, and the direction of the national economy. It mainly focuses on two aspects. On the one hand, for the operation of the domestic economy, the macroeconomic security concept is centered on coordinated development, relying on the domestic laws of the Anti-Monopoly Law and the Anti-Unfair Competition Law, trying to find a balance between the market, the government and the society, and to overcome market shortages and achieve economic security. On the other hand, in the operation of the international economy, the concept takes independent development as the core, and relies on the "Foreign Trade Law" and other legal systems to ensure the national economic sovereignty security, investment security and development security, and prevent the loss of national property in international trade.^[11] It can be seen that for the protection of macroeconomic security, adjustments with the help of economic law are the best choice.

Secondly, with the continuous expansion of production scale and the continuous accumulation of capital, unfair competition between monopoly and legally formed market advantages has become a stubborn disease in the market. Although consumers and most producers are protected by a formal and equal contract system, their legal rights and interests are still in an insecure state in essence. Faced with increasing problems, they need to be resolved from the following two aspects. First, it is necessary to establish a new security concept for the new era to protect economic security from a macro perspective. Second, make adjustments to the Anti-Monopoly Law and the Anti-Unfair Competition Law in accordance with market demand. On January 2, 2020, the draft revision of the "Anti-Monopoly Law" was released for public comments, it will improve the regulatory system of monopoly agreements, abuse of market dominance and concentration of operators, and make anti-monopoly Law can better adapt to the current market, protect market fairness, encourage innovation and maintain the healthy development of the market.

3.4. Provide Path Options for the Codification of Other Branches of the Economic Law Department

In recent years, the party and the state have placed ecological and environmental protection in a more important strategic position. The emergence of the "two-mountain theory" signifies a change in the concept of my country's economic development. The use of the rule of law to promote the construction of ecological civilization has become a social consensus. However, due to the fragmentation of the current environmental legislation, there are many problems in the implementation of environmental laws, and there are even differences between some legal provisions and application principles. The promulgation of the *Civil Code* provided ideas for the compilation of the Environmental Code. After the environmental law is codified, the coordination of environmental laws can be enhanced, the environmental legislation is more integrated, and the achievements of my country's ecological civilization system reform can be better demonstrated.

3.5. The *Civil Code* Makes the Development of the Economic Law System More Clear

The emergence of the *Civil Code* has made the boundaries of the adjustment scope of economic law and civil law clearer, and also left room for the development of economic law. Judging from the content of the *Civil Code*, it has greatly promoted the systematization of our country's legislation and put forward new thinking directions for the construction of the economic law system. In the form of the *Civil Code*, the construction of the economic law system needs to consider these aspects: Firstly, forward-looking. The market economy is changing rapidly, and the content of the economic law is not unchanged, otherwise the market cannot be better adjusted. Therefore, when constructing the economic law system, foresight is extremely important. Only with foresight can the economic law truly play a role. Secondly, unity. When building an economic law system, the content of economic law should be selected, summarized, and sorted out. It is not simply stacking up knowledge. There must be the same idea within the same economic law system, and the ideas must

be coordinated with each other. Thirdly, we should reserve enough space for future legislation of individual laws of economic law. ^[12]The promulgation of the *Civil Code* has made the boundaries between civil law and economic law clearer in terms of rights and obligations, responsibilities, and scope of adjustment. It has also made economic law scholars aware of the need to speed up the improvement of the economic law system and solve the problem of economic law.

4. Conclusion

The promulgation of the *Civil Code* has greatly promoted the codification of various departments. Although the codification of economic law is still far away, the *Civil Code* has played a driving role in improving the content, concept and system of economic law. The *Civil Code* responds to the development of high-tech data in the Internet era, attaches great importance to the green principle, and improves the contract compilation. Arouses the attention of economic law circle, causes the economic law to adjust the content and the idea to more accord with the Times demand. It provides experience for the construction of harmonious and orderly economic law system and the systematization and scientization of economic law legislation in China.

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