

## **Problems Existing in the Protection of Private Property in Civil and Commercial Law and Their Solutions**

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**Abstract:** With the continuous growth of China's economy and the acceleration of the process of economic globalization, China's market economy system has gradually improved, and the laws and regulations on the protection of public property have also been continuously improved, but the legislation related to private property is not perfect. Civil and commercial law is of great significance to the protection of private property in our country at present. There are still some defects in the protection of civil and commercial law of private property in our country and further measures need to be taken to improve it. Based on this, on the basis of analyzing the problems existing in the civil and commercial law protection of private property, this paper puts forward a series of countermeasures, aiming at providing a solid basis for the civil and commercial law protection of private property.

### **1. Introduction**

At present, China has issued civil and commercial laws, criminal laws, economic laws, property laws and other laws for the judicial protection of private property. The property law has made it clear that the legal status of public property is equal to that of private property, while civil and commercial law is the law that protects private property and directly and effectively protects private property [1]. As the most direct and effective protection law for private property, civil and commercial law embodies the authority, compulsion and effectiveness of the law. However, although China's civil and commercial laws are relatively sound, they have played a very limited role in protecting private property. With the development of China's market economy and the improvement of people's income, the protection of Songyou property has become more and more of the significance of the times [2]. Perfect civil and commercial law protection of private property is very crucial to our economy and people [3]. At the same time, personal private property is no longer limited to bank deposits, houses and vehicles. Various network systems also provide storage conditions for personal private property, such as Yu 'e Bao and WeChat. This also urges civil and commercial laws to detail relevant property protection rules as soon as possible to effectively protect private property. Therefore, this paper makes a detailed analysis of the protection of private property in civil and commercial law, and puts forward some targeted suggestions and measures according to the actual situation, so as to give full play to the substantive role of the civil and commercial protection law of private property.

### **2. An Overview of Private Property Protection in Civil and Commercial Law**

The importance of protecting private property in civil and commercial law. Civil law is a kind of basic law to safeguard the life relationship in the society. It is divided into two types: citizens' economic life and family life. Commercial law is a kind of basic law to safeguard and adjust the main body of social profits. The main body it faces are mostly some enterprises and institutions. The content to be adjusted is the commercial economic relationship [4]. Give full play to the management role of human resources and social security services, work hard to expand employment, and pay attention to the re-employment of the unemployed in the supply-side reform. Raise the employment rate and reduce the unemployment rate as the priority objectives of macro-control. It can protect the legitimate rights and interests of citizens in a legal and compliant way. Of course, its

main impact significance cannot be ignored. Our country also focuses on its impact in determining its nature. At this stage, our country mainly protects legal and compliant private property. With the development of society, private economy has gradually become an important part of social economy.

### **3. The Protection Characteristics of Private Property in Civil and Commercial Law**

#### **3.1 Equality Feature**

China's civil and commercial law clearly stipulates that all private property subjects enjoy equal legal status and the degree of protection afforded by law is exactly the same. That is, any civil subject, regardless of his economic status, the nature of ownership and the region where he is located, should follow the same principles and norms in their behavior [5]. The subjects of each private property, regardless of their status, ability and economic conditions, can enjoy completely equal legal status in civil activities. No matter what their status, economic basis and ability of assets and liabilities are, they enjoy equal legal status, which is a primary principle for the protection of private property in civil and commercial law. This is the first principle that civil and commercial law must adhere to in protecting private property. At the same time, the feature of equality adds fair and effective legal protection to all private property owners.

#### **3.2 Passive Feature**

However, the civil and commercial law has clearly stipulated the legal protection of the private property subject, but the civil and commercial law has not actively intervened and protected the private property. Only when the rights and interests of the private property subject are infringed to a certain extent and the corresponding legal protection is proposed can it give the subject corresponding protection. Only when private economic rights and private property suffer from infringement, the judicial administrative organ will protect the private property according to the relevant civil and commercial law rules, instead of actively implementing it. Government functional departments should guide and help employing units to perfect loopholes and problems in human resources management and promote enterprises to standardize employment by citing cases and combining typical cases.

#### **3.3 Compensatory Feature**

In the civil and commercial law protection of private property, when the legitimate rights and interests of the private property subject are violated, compensation shall be given according to the degree of loss, so as to ensure that the legitimate rights and interests of the private property subject are protected and the interests of all subjects are coordinated [6]. Its main purpose is to restore the interests of both the infringer and the obligee to the state before the infringement occurred, so as to safeguard the balance of interests of both parties. As for the compensation method of private property, it is direct compensation in civil and commercial law and has no nature of punishment. It is paid directly according to the highest standard in contract law, so it is relatively fair and direct.

### **4. Problems Existed in Civil and Commercial Law Protection of Private Property**

#### **4.1 The Subject of Private Property Has Weak Legal Consciousness**

At present, the vast majority of private property owners in our country have weak legal awareness and legal concepts, and the problems of irregular learning and usage are very prominent. The content of civil and commercial law not only involves civil law, but also includes commercial law. Among them, civil law is the basic law, which can be subdivided into creditor's rights law and property law. Commercial law is a special law, which can be subdivided into enterprise law, insurance law and company law [7]. In civil activities, citizens enjoy equal legal status regardless of the status of the subject of civil activities, the economic basis or the ability of assets and liabilities. What's more, there is a lack of awareness of private property, believing that it has no actual

relationship with itself, which leads to the inability to safeguard their legitimate rights and interests through effective legal means in a timely manner when they are infringed upon and destroyed by others. Moreover, some extreme private economic entities will take improper actions alone to defend them, such as violence and threats. All private property subjects and enterprises and institutions are required to unconditionally abide by the relevant provisions of the civil and commercial law, and all acts must comply with the relevant requirements of the civil and commercial law [8]. Although the civil law as the basic law and the commercial law as the special law provide corresponding protection for private property, the current people's legal awareness is still very weak. The issue of property rights has not received attention as a fundamental issue, which has also led to insufficient implementation of private property rights in people's life practice.

#### **4.2 Private Property Legislation is Not Perfect**

Compared with western developed countries, the relevant legislation on the protection of private property in China's civil and commercial laws is not perfect and the legislative system is not standardized enough. This is reflected in the following two aspects: First, there are very few principles for the protection of private property in civil and commercial law, resulting in no evidence to follow in the actual operation process. Second, the protection scope of private property's civil and commercial law is relatively small and the content is not comprehensive. Therefore, the civil and commercial law protection of private property needs to seek legal protection, and the passivity must be changed to protect the legal subject. Therefore, it is difficult to set up a special supervision structure to supervise and manage the specific maintenance of private property. In this case, will directly lead to the strength of private property defenders is too weak, only rely on the strength of the defenders is difficult to achieve good protection effect [9].

#### **4.3 Legal Supervision and Management Are Not in Place**

In the process of civil and commercial law protection of private property, there is a lack of strong legal supervision and management means, which results in some illegal and illegal acts not being effectively regulated and the legitimate rights and interests of private property subjects not being effectively protected. The protection of private property in civil and commercial law and the lack of powerful means of legal supervision and management have led to some illegal acts not being effectively stopped, thus unable to effectively protect the legitimate rights and interests of private property subjects. In the long run, the lack of legal supervision and management institutions, the lack of supervision and management mechanisms, and the limited ability of private property owners to protect themselves will inevitably lead to inadequate protection of private property. The private nature of private property determines that it does not have a strong state as a solid backing, nor does it have a special supervision organization to supervise its maintenance as necessary, resulting in the weak strength of private property defenders.

#### **4.4 The Implementation of the Property Right System of Private Property is Ineffective**

Any law and regulation can be called a sound and perfect law and regulation only if it is feasible, operable and fully implemented in practice. With the all-round development of economy and society, private economy has become an important part of the current social and economic development. It can standardize the main body and give a certain standard to the main body in order to better safeguard the socialist market economy. Not only that, in the protection of private property, civil and commercial laws have not actually penetrated into some backward and remote mountain areas, and cannot protect their property through legal means. At the same time, problems such as unsound property right system of private property and ineffective implementation are very prominent, which cannot ensure the complete protection of private property and is not conducive to the protection and maintenance of the legitimate rights and interests of private property owners.

## **5. Countermeasures for the Protection of Private Property by Civil and Commercial Law**

### **5.1 Strengthen the Legal Consciousness of Private Property Subject**

Because many private property subjects in our country have weak legal awareness and rights protection concepts, when their legitimate rights and interests are violated, they cannot use legal weapons to protect themselves, making the protection of private property inadequate. Therefore, the government should further intensify the publicity and promotion of civil and commercial laws, so that the public can have a systematic and comprehensive understanding and grasp of civil and commercial laws, in order to enhance the legal awareness of private property subjects. Many problems emerge in endlessly in the new era. These all need to be perfected in the legislation system. In particular, the civil and commercial law is directly related to the reality of citizens and plays a vital role in people's life. For example, the property law has positive significance to the civil and commercial law. Property publicity lectures can be conducted irregularly in communities, schools, etc., or brochures on civil and commercial laws can be produced and distributed to raise citizens' awareness of private property protection. At the same time, the publicity and education of civil and commercial law can also be carried out through new media, such as television, radio, newspapers, the Internet, etc., in order to deepen the knowledge in this area from various angles. At present, with the progress of our country's times and the continuous development of the market economy, many new problems have emerged in the possession of property, but these problems have not yet been reflected in the law. If we say that the property law, which is of key significance to civil and commercial law, has the problem of limited legal materials incorporated into the property law [10].

### **5.2 Perfect the Legal Guarantee System for Private Property**

Gradually expand the scope of civil and commercial law protection of private property, enrich the basic content of civil and commercial law, and further bring new products and new things in the development of economic market into the scope of protection. Our country should further expand the scope of civil and commercial law to protect private property, gradually enrich the basic content of civil and commercial law, and bring some new things of economic market development into the scope of protection. At the same time, the property law also makes clear provisions on the ownership and scope of private property, and at the same time specifies in detail some relatively new rights enjoyed by owners for buildings, such as differentiated ownership, expropriation system, etc. to perfect the legal systems of private property. For example, a set of protection laws is specially established for various virtual currencies on the network, so as to realize full coverage of the protection of private property, civil and commercial laws, and achieve the purposes of laws, laws, regulations and evidence.

### **5.3 Strengthen Legal Supervision and Management**

Without a perfect legal supervision system, loopholes in law enforcement will inevitably exist. Due to the close correlation between private property rights and the personal interests of everyone, it is imperative to strengthen the legal supervision of civil and commercial laws. Therefore, it is necessary to continuously strengthen legal supervision and management, perfect the supervision system of relevant laws and regulations, and crack down and severely punish all acts violating civil and commercial laws. At the same time, all private property subjects shall be protected by law, and the subject status of civil and commercial law in the protection of private property shall be clarified. The use of supervision means requires the full implementation of legal practice. Only by realizing one's own legitimate rights and interests can the rights and interests of the people be legally protected. Only by setting up the protection content of judicial practice can the judicial content be put into practice. At the same time, the functions of the relevant posts involved in the administrative law enforcement agencies should be clarified. Once the relevant responsible persons are found to have violated the civil and commercial laws, they should pursue their responsibilities in a timely manner and be punished in accordance with the law, such as corruption in violation of discipline,

hidden rule transactions and covert operations, to highlight the fairness and rigour of the civil and commercial laws.

#### **5.4 Perfect the Property Right System of Private Property**

During the implementation and operation of civil and commercial law, we must strengthen the protection of private property and earnestly safeguard the legitimate rights and interests of private property subjects. Even with the continuous development of the times, the system of tort law is getting larger and larger, and the scope of rights guaranteed is getting wider and wider, but the earliest task of tort law is to protect real rights and protect property rights. Under this social background, the legislation of civil and commercial law should keep pace with the times, constantly improve the detailed rules for the protection of private property, and incorporate the part of citizens' private virtual property into the legal protection system, so as to be able to have laws to follow when solving private property such as network currency. To a certain extent, judicial protection is the legal barrier to the protection of private property rights and the main body to protect the legitimate rights and interests of private property subjects. Therefore, the protection of private property cannot be separated from the maintenance of the law, and some targeted policy support is needed in order to play its important role in the protection of private property.

#### **6. Conclusion**

To sum up, the civil and commercial law protection of private property in our country is very prominent. We need to build a perfect civil and commercial law protection system from the aspects of strengthening the legal awareness of private property subjects, perfecting the legal protection system of private property, strengthening legal supervision and management, and perfecting the property right system of private property. If we do a good job in perfecting the legal system, strengthening the judicial practice of legal supervision and enforcement, perfecting the tort law and giving full play to the important role of the property law in the civil and commercial law system, we will certainly be able to better play the role of the civil and commercial law in the protection of private property. At the same time, the relevant legal system should be further improved to crack down on all acts violating civil and commercial laws. At the same time, relevant laws should be implemented to protect all private property subjects and provide a safe legal environment for the public.

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