

On the Principle of Honesty and Trustworthiness in Civil Law

Zihan Zhang

Wuhan University of Technology, Wuhan, 430070, China

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Abstract: Our country has gone through thousands of years of development, from the centralized autocratic monarchy system to the socialist system. The concept of equality and freedom has been deeply rooted in people's hearts, which requires our protection in the form of law. Civil law is a kind of legal form that protects people's basic rights and stipulates people's basic tasks, while the principle of honesty and trustworthiness is quite vital in civil law and the whole legal system. This paper analyzes this principle, finds out the existing problems in the current civil law, explores the corresponding improvement measures, and hopes to provide some effective help.

1. Introduction

The Chinese nation has a long history of five thousand years. During the long progress, many excellent traditional cultures and national traditional virtues have been accumulated. Honesty and trustworthiness is the representative. As Chinese people, we are expected to inherit and carry forward the spirit of the principle of honesty and trustworthiness. In the process of making laws and regulations, it is also necessary to refer to and incorporate this principle.

With the development of the times and society, a variety of new industries and new technical means emerge endlessly, and our life rhythm is greatly accelerated. However, at the same time, the spirit of honesty and trustworthiness is constantly weakening, which affects the harmonious development of the whole society to a certain extent. We should apply the principle of honesty and trustworthiness to civil law, so as to improve the status quo.

2. Overview of the Principle of Honesty and Trustworthiness

"When engaging in civil activities, civil subjects shall abide by the principle of good faith, uphold honesty and honor commitments." This is the relevant provisions of the principle of honesty and trustworthiness, and also one of the main basic principles in civil law. For citizens of our country, in the process of engaging in various activities, it is essential to abide by the laws of our country, practice the principle of honesty and trustworthiness, and exercise our rights and fulfill our obligations within the scope of laws. The practice of the mentioned principle is not only for others, but also for our own heart.

Our country has been advocating the spirit of honesty and trustworthiness since ancient times. Honesty and trustworthiness is also the traditional virtue of our country. Benevolence, righteousness, propriety, wisdom and trustworthiness are the moral requirements of our predecessors. Confucius also said that "if one has no faith, then he will fail." Therefore, it is urgently to bring the principle of honesty and trustworthiness into the civil law and the whole legal system. In the process of legislation, our country has indeed made some relevant attempts to combine the principle with the legal system and find its own path. But in today's society, there are still some deficiencies.

It is not hard for us to find that in the current social activities, there are still many behaviors that violate the principle of honesty and trustworthiness, which affect the operation of normal social order and has caused a certain degree of damage to citizens. In the course of business activities, some companies lack the spirit of contract, and often go back on their words or even do tricks on the contract. Some lawbreakers make use of people's psychological loopholes to engage in fraud activities with communication means. Some traders, ignoring the regulations of relevant departments, sell fake and shoddy goods. Moreover, overdue vaccines, false advertisements, tax

evasion and tax evasion are all the results of the fact that the principle of honesty and trustworthiness has not been fully implemented. The application of the principle to civil law is of great necessity.

The principle of honesty and trustworthiness has not only got the corresponding attention in our country, but also got the general consensus in the whole world. The Saxony Civil Code stipulates that “except according to special agreement and laws and regulations, the contract should be observed.” In German civil code, there are also relevant regulations, for example, “the contract should be based on the custom of transaction and follow the principle of good faith”, which provides theoretical support for the implementation of the principle of honesty and trustworthiness.

3. Principle of Honesty and Trustworthiness and Related Functions

3.1 Establish Rules of Conduct

The principle of honesty and trustworthiness establishes the rules of conduct, which, in a popular way, means that the citizen, on the premise of following the principle of honesty and trustworthiness, exercises the rights and fulfills the corresponding obligations stipulated in civil law. In the process of conflict between citizens' inner will and actual performance, civil law adopts expressionism, and performance agency and performance representative system according to our trust. In the process of our business activities, these relevant systems can effectively guarantee our safety.

Moreover, we often sign corresponding contracts in the process of business activities. In the field of contract law, the principle of honesty and trustworthiness is also implemented. Both parties of business activities should formulate contracts on the basis of honesty and trustworthiness, and exercise their rights and perform obligations according to the provisions of the contract. Honesty and trustworthiness and other ethics and morals produce constraints.

In the field of property law, honesty is also one of the basic principles, playing a very important role. In the process of exercising property rights, citizens must abide by the principle of honesty and trustworthiness, so as to ensure the smooth operation of economic order. When exercising property rights, we cannot affect the interests of others. For example, when placing objects, we are expected to avoid objects with pungent smell that may affect neighboring neighbors. We should also avoid to affect others in the process of using objects.

3.2 Fill in Loopholes in Laws and Contracts

For the first time, the principle of honesty and trustworthiness has become the basic principle of civil law. That is, the Swedish Civil Code has stipulated that honesty and trustworthiness had been included in civil law system, offering judges certain freedom. In this way, it is possible to fill the loopholes of law and contract in judicial activities with the principle of honesty and trustworthiness. Uncertainty and the principle of honesty and trustworthiness give the judges the right to realize the continuity of the law and solve loopholes of the law with the interpretation of good faith. The supplementary management of new social interest conflicts and problems supports the legal rules, so as to realize the coordination between the law and the value standard of the relationship between the changed life and society. This principle allows judges to fill in legal loopholes and provides certain legal basis and methods. The change of realistic relationship leads to unexpected conflict of interest. When proposing a solution, the judge must follow the principle, and reasonably determine the rights and obligations of the parties. The law does not recognize those that violate the principle of honesty and trustworthiness.

The principle can also be used to fill the loopholes in the contract. Only when the parties abide by the basic requirements of honesty and trustworthiness, can they get the support of the law. Only when the content of the contract is actually omitted and the terms of the contract and the contract law fail to explain, can we fill the loopholes according to the principle of honesty and trustworthiness. In the case of no provision for obligations in the contract, the parties shall perform their obligations, and the judge may also determine the obligations that the parties shall perform in

accordance with the principle.

4. Principle of Honesty and Trustworthiness as the Basis of Civil Law

4.1 Principle of Honesty and Trustworthiness Can Overcome the Hysteresis of Law to a Certain Extent

With the development of the times and society, our laws and regulations are gradually improved, but there is no so-called “perfect law”. Law is constantly developing forward, and our legal concept is also constantly improving. With the development of the times and society, some are no longer suitable for the current reality with certain hysteresis. With the continuous development of economy and science and technology, some new problems have been raised for us. In the past process, the legal provisions that can well define the rights and obligations have some problems of insufficient legal basis, which requires us to follow the principle of honesty and trustworthiness, and overcome the hysteresis of law, so as to maintain the order of the whole society.

4.2 Enhance the Binding Force of Ethics

No matter at home or abroad, morality is one of people’s main codes of conduct. However, in social activities, if people violate the code of ethics or obtain improper benefits, they just receive people’s verbal condemnation without bearing corresponding actual responsibilities, which makes the moral restraint gradually decline. Honesty and trustworthiness is the main moral code of conduct. If we take it as the basic principle of civil law, we will legally restrict these acts, so as to enhance the binding force of ethics.

5. Application of the Principle of Honesty and Trustworthiness to Civil Law

5.1 Improve the Credit System

As one of the basic principles of civil law, the principle of honesty and trustworthiness should focus on improving its influence in the whole society. Only when the influence has been improved correspondingly, can it have enough binding force on citizens. This requires us to build and perfect the credit system, supervise citizens, and make citizens realize the importance of abiding by the principle of honesty and trustworthiness.

It is suggested to set up a special social credit service organization to count the social and commercial activities of each enterprise, evaluate and quantify their credit level, give corresponding credit scores, and publish those with insufficient credit scores to the whole market and the public with punishment, so that each enterprise will pay attention to their own credit. Citizens can timely take advantage of the relevant database to make consultation and browse, in order to realize the improvement of openness of credit information.

5.2 Improve the Legal System

Legal system is the implementation of the principle of honesty and trustworthiness, so to apply the principle to civil law, we should analyze the legal system and improve our legal system. In view of the problems existing in the process of social development, it is necessary to formulate corresponding laws and regulations, and update some laws and regulations that have gradually not adapted to the current situation of social development.

For example, in view of some unfair transactions and dishonest business activities in the market economy, it is suggested to issue Fair Trade Law, Credit Law, etc., improve relevant laws and regulations, regulate market economy behavior, formulate relevant laws and regulations based on the principle of honesty and trustworthiness, and improve the legal system.

5.3 Demand Judges Based on the Principle of Honesty and Trustworthiness

Basically, the principle of honesty and trustworthiness offers judges the right to hear and adjudicate cases. It is a discretionary power aiming at facts and justice, that is, the value means of

legal justice is not changed due to social conditions. However, there are also potential risks of abuse. In the process of applying the principle to the management of civil cases, judges are expected to act in terms of procedures and results and adhere to the principle of honesty and trustworthiness.

Firstly, the discretion of judges must be limited. It is impossible for law to cover all aspects of social life, so it is necessary and possible for a judge to have certain discretion when dealing with a specific case. However, based on the stability of the rule of law and fairness of the result, a judge must abide by the purpose of legislation and the applicable legal rules, adhere to honesty and justice, carry out correct legal interpretation, distribute the rights and obligations of the parties fairly, and carry out the principle of honesty and trustworthiness in civil law. This principle gives judges the freedom to apply discretion to a case, and also the right and obligation between the parties to be distributed by the principle of honesty and trustworthiness, which is undoubtedly most in civil law.

Secondly, the free evaluation of judges must be limited. Due to the great uncertainty of judge's discretion and principle of honesty and trustworthiness, the judge's judgment must be honest and reliable. According to the requirements of civil procedure law and its legal interpretation, the reasons for applying the principle of honesty and trustworthiness to the judgment should be stated in the judgment. In dealing with cases, it is essential to carefully check the facts, procedures and application of law, and strive to achieve the organic unity of the legal effect and social effect of handling cases on the basis of fully understanding the legal spirit and identifying the facts of cases according to law.

6. Conclusion

The principle of honesty and trustworthiness is one of the basic principles in civil law and the whole legal system. It is also the cream left by the 5000 years of traditional culture in our country. We should integrate the principle into civil law, establish corresponding credit system, perfect our country's legal system and demand the judge by upholding the principle of honesty and trustworthiness, so as to create harmonious social atmosphere and move forward.

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