

Dynamic Adaptation of the Basic Principles of Civil Law and Reconstruction of the Market Economic Order: Based on the Systematic Logic of the Chinese Civil Code

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Abstract

Taking the systematic logic of China's civil code as a framework, this paper explores the dynamic adaptation of the basic principles of civil law in the context of the digital economy era and its function of reconstructing the market economic order. The study points out that traditional civil law principles (such as autonomy of meaning, protection of reliance, and public order and good morals) are facing the adaptive challenges of new business models such as the platform economy and data transactions, and there is an urgent need to realise a balance of values by integrating decentralised principles and constructing synergistic mechanisms. The article starts from the limitations of formal rationality in modern civil law, analyses the inevitability of modern civil law's shift towards substantiation, and emphasises the role of the expansion of the principle of good faith and the development of the typology of public order and good morals in regulating the risk of market failure. The Chinese Civil Code responds to the real needs of the digital economy, such as the protection of human dignity, the internalisation of environmental costs, and the distribution of platform responsibilities, through such innovations as the independent codification of personality rights, the introduction of the green principle, and the dynamic articulation of the special law on commercial affairs. In view of new challenges such as the dilemma of positioning data rights and interests and the regulation of algorithmic power, the study proposes to construct a two-tier rule of "consent-anonymisation" based on the principle of good faith, expand the scope of application of the principle of reliance in order to balance technological neutrality and transaction security, and realise a systematic distribution of platform responsibilities through the presumption of fault and differentiated attribution of responsibility. Distribution. This paper provides a theoretical framework and a practical path for the adjustment of the basic principles of civil law in the era of digital economy, which is of dual value for the

improvement of the civil law theory system and the promotion of the rule of law in the market economy.

Keywords: Fundamental Principles of Civil Law; Dynamic Adaptation; Market Economic Order; Chinese Civil Code; Digital Economy; Systemic Logic

1. Introduction

Against the backdrop of emerging economic forms such as the platform economy and data transactions, traditional civil law principles face challenges in adapting to the profound transformations in market transaction subjects, objects, and modes. This study addresses the limitations of existing research—which predominantly adopts static analyses of civil law principles' support for the market economy—by proposing a systematic framework for the dynamic adaptation mechanism of civil law's foundational principles. The research integrates the relatively dispersed doctrines of "autonomy of meaning," "protection of reliance," and "public order and morality" within civil law theory, elucidating their intrinsic connections and interactive mechanisms (Liu & Zhang, 1997). This integration not only advances the theoretical system of civil law by constructing a cohesive logic of dynamic adaptation but also responds to the urgent needs of China's digital economy era. By re-examining the jurisprudential logic of civil law principles, the study provides an interpretative framework for applying the Chinese Civil Code to balance security and freedom in digital market transactions. It further offers actionable guidance for judicial practice, ensuring stable market operations and fostering the healthy development of the digital economy while addressing new challenges posed by evolving economic paradigms.

2. The Market Economy Function of the Basic Principles of Civil Law: Logical Beginnings and Systematic Correlation

2.1. The Centrality of Private Law Autonomy

Logical basis: Autonomy of meaning is the juridical expression of the freedom of market transactions, which grants market participants the right to independently determine the content and manner of transactions within the limits permitted by law. From the perspective of the juridical mapping of the Coase theorem, transaction costs can be effectively reduced through freedom of contract and the definition of property rights. In a market economy, clearly defined property rights allow market players to have clear rights to their own property and thus be able to trade freely. Freedom of contract, on the other hand, allows market players to freely negotiate the terms of the transaction according to their own wishes and interests and reach a mutually beneficial and win-win transaction. This model of free trade promotes the efficient allocation of resources and improves economic efficiency.

Systemic relevance: Private law autonomy is interlinked with the "principle of equity" and the "principle of good faith" to form a dynamic balance of "freedom - fairness" to avoid Market failure. Wang Yi's value judgement theory points out that in a market economy, pure autonomy of meaning may lead to market players pursuing the maximisation of their own interests to the

neglect of fairness and good faith (Wang, 2024). The principle of fairness requires that market transactions should follow the principles of equal pay for equal value, fairness and reasonableness to ensure that the interests of both parties to the transaction are balanced. The principle of good faith requires market players in the transaction process to uphold the attitude of honesty and credit, not fraud, concealment of important information. When private law autonomy is combined with the principles of fairness and good faith, it can effectively avoid unfair competition and behaviours detrimental to the interests of others on the part of market players, maintain the order of fair competition in the market, and prevent market failure.

2.2. The Order-Building Function of the Principle of Reliance

Transaction security dimension: In market transactions, information asymmetry is a common problem. The principle of trust protection makes up for this defect and maintains the stability of market transactions (Ma, 2020). From the perspective of the logic of appearanceism and risk allocation of law and economics, when the counterparty of a transaction conducts a transaction with the other party on the basis of reasonable trust, the law will protect the interests of the trusting party to a certain extent, even if there are defects in the transaction behaviour. For example, in the case of an agency without authority, if a third party has reason to believe that the agent has the authority to act, then the act of agency is effective against the agent. The existence of this principle makes it unnecessary for market participants to worry too much about suffering losses as a result of the other party's behaviour, such as fraud or dispositions without authority, thus enhancing confidence in market transactions and facilitating the smooth conduct of transactions.

Interface with public order and good morals: public order and good morals set the boundaries for the principle of reliance and reconcile the relationship between individual freedom and the overall interests of society. Liang Huixing's explanation of the economic function of public order and good morals shows that public order and good morals, as the embodiment of social public order and good customs, require that the behaviour of market players should not be contrary to social public interests and moral standards (Liang, 1993). When the behaviour of a market player may harm the overall interests of society, the law will not support the transaction even if the relative conducts a transaction with it based on trust. For example, in some contracts involving gambling, drug transactions and other violations of public order and morals, even if both parties reach an agreement based on trust, the contract is invalid. In this way, public order and good morals safeguard the overall interests of society while protecting the free transactions of individuals.

2.3. Synergies of Basic Principles

Sacrosanctity of private rights and limitations in the public interest: The principle of legal rights in rem specifies the types and contents of rights in rem, safeguards the rightful owner's legitimate right to dispose of things, and embodies the concept of sacrosanctity of private rights. However, in some cases, in the public interest, the law will limit the right of property. For example, the state may expropriate or requisition real property such as land in accordance with the law for the needs of public interest. This dialectical relationship between the law of property

rights and the public interest exception reflects the balance between market resource allocation and public well-being (Xu, 1995). In a market economy, it is necessary to fully protect the private rights of market participants and encourage them to actively participate in economic activities, while at the same time appropriately restricting private rights when necessary in the public interest in order to achieve the overall development of society.

3. From Modernity to Modernity: The Logic of Dynamic Adaptation of the Basic Principles of Civil Law

3.1. The Limits of Formal Rationality in Modern Civil Law

Modern civil law emphasises absolute autonomy of meaning and the absolutisation of ownership, which to a certain extent promotes the development of a market economy. However, this philosophy has also brought about many problems. With the development of the capitalist economy, market monopoly and the division between the rich and the poor have become increasingly serious. Under the mode of absolute autonomy, big enterprises, by virtue of their economic advantages, squeeze the living space of small and medium-sized enterprises by means of monopoly agreements and restriction of competition, thus undermining the order of fair competition in the market. At the same time, the absolutisation of ownership has led to the concentration of property in the hands of a few people, aggravating the disparity between the rich and the poor. These problems have given rise to the theory of "death by contract", which holds that the traditional principle of freedom of contract has been subjected to many restrictions in reality and has lost its original vigour.

3.2. The Substantive Turn in Modern Civil Law

Expansion of the Principle of Good Faith: The principle of good faith has been greatly expanded in modern civil law, gradually developing from an initial obligation attached to a contract to a general code of conduct. Wang Liming and Yang Lixin pointed out on the functional reconstruction of the principle of good faith that with the development of market economy, transaction activities are becoming more and more complex, the problem of information asymmetry is more prominent, and the moral risk also increases (Yang et al, 2021). The principle of good faith requires market players to not only comply with contractual agreements in the course of transactions, but also uphold the attitude of honesty and trust, and fulfil the accompanying obligations such as notification, assistance and confidentiality. In some new types of transactions, such as e-commerce, financial derivatives transactions, etc., the principle of good faith plays an important role, filling the moral hazard loopholes in market transactions and maintaining the fairness and order of market transactions.

Typological development of public order and good morals: public order and good morals have gradually evolved from traditional moral defence to economic order intervention. Liang Huixing's logic of regulating profiteering behaviour and monopoly agreements shows that in modern market economy, some behaviours, although not violating specific legal provisions, are contrary to public order and morality, and damage social public interests and economic order (Liang, 1993). For example, there are profiteering behaviours in the trading of some goods or services, which

seriously harm the interests of consumers. For these behaviours, the law can regulate them on the basis of the principle of public order and morality. In addition, the principle of public order and morality can also be used as a basis for judging the illegality of acts that restrict competition, such as monopoly agreements, so as to maintain fair competition in the market and the healthy development of the economy.

3.3. The Responsive Character of Chinese Civil Law

Against the backdrop of a booming digital economy, data has risen to become a crucial asset whose rights and interests need to be protected and the rules for transactions need to be clarified (as many scholars have pointed out, the rational use and proper protection of data is a core element in promoting the sound development of the digital economy). China's Civil Code has responded positively to the needs of social development by regulating new issues such as digital assets and platform liability. Article 127 of the Civil Code, which addresses data rights and interests, provides a solid legal basis for the protection and utilisation of data. In the field of platform economy, the determination of platform liability is undoubtedly a key and complex issue. The provisions of Article 1195 on liability for online infringement clearly specify the responsibilities and obligations of platforms in the event of online infringement. It is these provisions in the Civil Code that fully embodies the dual consideration of the basic principles of civil law on technology neutrality and transaction security. On the one hand, it encourages the innovation and application of digital technology and helps the industry to flourish; on the other hand, it effectively guarantees the security and stability of market transactions and creates a favourable business environment.

4. Systematic Innovation in China's Civil Code: A Rule of Law Expression of the Market Economy

4.1. Jurisprudential Breakthrough in the Independent Codification of Personality Rights

In a market economy, human dignity and property rights and interests deserve equal protection. However, in the booming digital economy, the risk of "alienation of human beings" has been increasing, and phenomena such as big data and algorithmic discrimination have seriously violated consumers' human dignity. Personality rights have been independently codified, which is a major innovation in China's civil code, making the protection of personality rights more systematic and comprehensive. It specifies the types and contents of personality rights, and stipulates the ways of protection and remedies. It is this innovation that strongly responds to the urgent need for the protection of human dignity in market transactions, reflecting the deep concern and respect for human beings in civil law, which in turn helps to maintain fairness and justice in market transactions.

4.2. The Order Restructuring Function of the Green Principles

The traditional market economy development model often ignores the environmental costs, resulting in an increasing waste of resources and environmental pollution. The Green Principle, as a core principle of the Chinese Civil Code, has the key function of restructuring the order. This

principle internalises ecological interests and requires market players to take environmental factors into account in the course of economic activities, and to incorporate environmental costs into the evaluation system of market transactions. For example, enterprises should adopt environmentally friendly production technologies and processes in their production and operation activities, so as to reduce the emission of pollutants. In this way, the value synergy of "private law autonomy - sustainable development" is realised. The synergy model (which adopts a mechanism for regulating and guiding market behaviour) not only safeguards the free trading rights of market players, but also promotes sustainable economic development, ultimately achieving the reconstruction of the market economic order.

4.3. Dynamic Articulation of Commercial Lex Specialis

The basic principles of the Civil Code play an important role in guiding special commercial laws such as the Company Law and the Electronic Commerce Law. At the same time, the special commercial laws have refined and supplemented the relevant provisions of the Civil Code in accordance with the uniqueness of commercial activities (Xie, 2017). In terms of reviewing the format terms, according to the principle of good faith of the Civil Code, the provider of the format terms shall follow the principle of fairness in determining the rights and obligations between the parties and shall, in a reasonable manner, draw the attention of the other party to the terms that exempt or reduce its own responsibility and other terms that have a significant interest in the other party. The E-Commerce Law further specifies that e-commerce operators shall draw the attention of consumers to the content of significant interest to consumers in a conspicuous manner, and provide explanations at the request of consumers. In respect of the protection of shareholders' rights, it is the principle of reliance protection of the Civil Code that lays the foundation for the protection of shareholders' rights, while the Company Law carries out detailed provisions on the specific content, exercise and remedies of shareholders' rights. This dynamic connection reflects the inclusion and restriction of the basic principles of the Civil Code to the special characteristics of commercial affairs, and strongly promotes the standardisation of commercial transactions and the rule of law.

5. Challenges and Responses: Paths to Systemic Adaptation in the Digital Economy

5.1. Dilemma of Civil Law Positioning of Data Rights

At a time when the digital economy is booming, the positioning of data rights and interests in civil law is mired in logical conflicts. As a key driver of the digital economy, data sharing can promote the optimal allocation of resources and innovative applications, which is of great significance in enhancing economic efficiency. At the same time, the importance of personal privacy protection should not be underestimated, as it is closely related to the personal dignity and legitimate rights and interests of individuals. It is this tension that makes the construction of the two-tier rule of "consent - anonymisation" based on the principle of good faith an inevitable choice. Referring to Article 1034 of the Civil Code on the right to privacy, Article 1035 on the rules on the processing of personal information, and Article 127 on the rights and interests of data, the explicit consent of the data subject is indispensable at the data collection stage to safeguard

his/her right to information and right to choose. During data processing, anonymisation techniques (as an effective means of protecting personal information) should be used to de-identify personal information, thereby reducing the risk of disclosure and misuse of personal information. In this way, while data sharing can be carried out smoothly, personal privacy can also be effectively protected, successfully balancing the relationship between data rights and personal privacy protection.

5.2. Private Law Regulation of Algorithmic Power

In the digital economy, algorithms are widely used, and the exercise of their power is likely to have a significant impact on market transactions. The scope of application of the principle of reliance needs to be extended to algorithms in order to address the many challenges posed by algorithmic power. In particular, the obligation of algorithmic transparency and the protection of users' reasonable expectations are crucial. Algorithmic processes and decision-making mechanisms are often complex and hidden, and are prone to forming technical black boxes that erode users' autonomy. Referring to the compliance logic of the EU's Digital Marketplace Law, algorithm developers and users are required to fulfil the obligation of algorithm transparency by disclosing to users the basic principle, operation mechanism and possible impact of the algorithm. At the same time, users' reasonable expectations of algorithmic decisions should be protected to ensure that the algorithms operate in accordance with the principles of fairness and impartiality. When algorithmic decision-making results in damage to users' rights and interests, users should have appropriate remedies to safeguard their legitimate rights and interests.

5.3. Systematic Allocation of Platform Responsibilities

In the era of digital economy, platforms play an extremely important role in market transactions, and thus the systematic allocation of platform liability is crucial. Based on the principle of presumption of fault, it is reasonable to differentiate the attribution of liability based on the platform's control and profitability. From the interpretive theory of Article 1197 "necessary measures" of the Civil Code, when there is an infringement on the platform, the platform is firstly presumed to be at fault. The platform should take necessary measures to prevent the infringement from occurring and expanding based on its control and profitability. For example, large e-commerce platforms, by virtue of their strong technical and managerial capabilities (with significant advantages in platform operation), should assume a higher duty of care to detect and deal with infringing goods or services on the platform in a timely manner. Some small platforms, on the other hand, may be appropriately mitigated in assuming liability due to their relatively weaker control. Through this differentiated attribution of responsibility, a reasonable distribution of platform responsibilities can be achieved, which not only protects the legitimate rights and interests of consumers and right holders, but also promotes the healthy development of the platform economy.

6. Conclusion

6.1. Theoretical Summary

Under the complex landscape of contemporary market economy and social development, the basic principles of civil law, by virtue of their dynamic adjustment mechanism, have achieved a rebalancing between freedom and fairness, security and efficiency, a process that builds up the "bottom-line order" and "innovation space" of the market economy. From the theoretical level, in different stages of economic development and pluralistic social background, the basic principles of civil law, as the key explanatory variables, can be adjusted continuously to its own connotation and scope of application according to the dynamic changes of market demand and social development. This adjustment mechanism plays a crucial role in guaranteeing the stable operation and innovative development of the market economy. This phenomenon is in dialogue with many studies on the dynamic adaptability of law in the field of jurisprudence, but further verification of its specific path of action in different periods of economic transition is needed.

The systematic logic of the Chinese Civil Code presents the typical characteristics of "responsive law", striking a delicate balance between stability and openness. It not only inherits and integrates the basic principles and systems of traditional civil law, thus maintaining the stability of the legal system; at the same time, it actively responds to the new problems and needs arising in the process of social development through innovative system design, such as the independent codification of personality rights and the introduction of the green principle, which demonstrates the openness of the legal system, and meets the urgent requirements of the times. This systematic logic contrasts with the codification philosophy of the traditional civil law system, and its practice in integrating the needs of the local society with the development trend of modern law provides a unique example for the codification of other countries, but it is still necessary to explore in depth its long-term effectiveness in responding to emerging legal issues.

6.2. Future Direction

With the continuous development of social economy, the basic principles of civil law in judicial practice is bound to face more complex problems. Within the framework of legal doctrine, it has become imperative to improve the rules of interpretation of the basic principles. From a practical point of view, clarifying the standards and methods of application of the basic principles in specific cases is of key significance in enhancing the fairness and predictability of judicial decisions and guaranteeing the accurate implementation of the basic principles of civil law. This initiative is highly compatible with the current judicial reform, which emphasises the goal of equal judgement in the same case and the enhancement of the credibility of the judiciary, but how to balance the flexibility of the principles and the certainty of the rules in the actual operation needs to be further explored.

In the context of the booming digital economy and deepening economic globalisation, it is urgent for civil law to be deeply connected with digital governance and global economic and trade rules. Civil law needs to be closely integrated with the rules of digital governance, so as to appropriately address emerging legal issues such as the protection of data rights and interests and

the regulation of algorithmic power. At the same time, with the increasing frequency of global economic and trade exchanges, the coordination between civil law and international economic and trade rules is of great significance in promoting the smooth development of international trade and investment, and enhancing China's voice and influence in global economic governance. This direction of development reflects the inevitable trend of the contemporary legal system in responding to cross-field and cross-border issues, but how to resolve conflicts and differences between different jurisdictions in the process of specific rules docking and institutional integration still requires in-depth research and practical exploration.

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References

- Liang, H. (1993). Market economy and the principle of public order and morality. *Journal of the Chinese Academy of Social Sciences*, (06), 21-28.
- Liu, K., and Zhang, Y. (1997). Changes in the principle of autonomy and its economic analysis. *Chinese and foreign law*, (04), 70-76.
- Ma, X. (2000). The status of the principle of trust in the modern private law system. *Legal Studies*, (03), 103-118.
- Wang, L. (2004). Discussion on the basic nature of civil law in China. *Zhejiang Social Science*, (01), 104-111.
- Xie, H. (2017). The logic of China's rule of law economic construction. *Legal Studies*, (06), 2-39.

- Xu, G. (1995). Civil society and civil law - a study of the object of civil law. *Legal Studies*, (04), 3-9.
- Yang, Z., Sun, Y. (2021). The value of China's civil code in the times. *Journal of Seeking Truth*, (05), 75-94.