

UPHOLD THE GUIDANCE OF XI JINPING THOUGHT ON THE RULE OF LAW TO BUILD AN INDEPENDENT KNOWLEDGE SYSTEM OF CHINESE CIVIL LAW

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The *Civil Code* is the first law of the People's Republic of China named as a code. The promulgation of the *Civil Code* is a vivid practice of Xi Jinping Thought on the Rule of Law and an important achievement of the law-based governance in all respects since the 18th National Congress of the Communist Party of China.

After the promulgation of the *Civil Code*, General Secretary *Xi Jinping* clearly pointed out: 'It is necessary to adhere to the guidance of the theory of socialist rule of law with Chinese characteristics, based on our country's national conditions and reality, strengthen the theoretical research on the civil legal system, and build the theoretical system and discourse system of civil law that reflect our country's socialist nature and have distinctive Chinese characteristics, practical characteristics, and characteristics of the times as soon as possible, so as to provide theoretical support for the effective implementation of the *Civil Code* and the development of our country's civil legal system.' On April 25, 2022, General Secretary *Xi Jinping* emphasized during his inspection of Renmin University of China: 'Accelerating the construction of philosophy and social sciences with Chinese characteristics is, in the final analysis, the construction of China's independent knowledge system.' This points out the direction for the construction of an independent knowledge system of civil law in the era of *China's Civil Code*. We should take Xi Jinping Thought on the Rule of Law as our guide and build an independent knowledge system of Chinese civil law.

I. GRASPING THE FUNDAMENTAL LEGAL STATUS OF THE CIVIL CODE AND BUILDING A CIVIL LAW KNOWLEDGE SYSTEM WITH THE CIVIL CODE AS ITS CORNERSTONE

General Secretary *Xi Jinping* pointed out: 'The *Civil Code* has an important position in the socialist legal system with Chinese

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characteristics, and is a basic law that consolidates foundations, ensures stable expectations, and delivers long-term benefits.’ The *Civil Code* is the fundamental law for regulating civil and commercial legal relations, the basic law of the socialist market economy, an encyclopedia of social life, a declaration for protecting civil rights, and the basic norms that law enforcement and judicial proceedings should follow. After the promulgation of the *Civil Code*, the major change from law to code lies in establishing the fundamental legal status of the *Civil Code*, which in fact also sets the central position of the *Civil Code* in the entire civil and commercial legal system. In the process of constructing an independent knowledge system of Chinese civil law, it is necessary to establish the concept that the *Civil Code* serves as the fundamental law for all civil and commercial laws, implement the principle of integrating civil and commercial laws, and build a civil law system led by the *Civil Code* and composed of separate laws.

II. IN LINE WITH THE VALUE CONCEPT OF THE CIVIL CODE THAT CENTERS ON THE PEOPLE AND SAFEGUARDS THEIR RIGHTS AND INTERESTS, BUILDING A CIVIL RIGHTS AND INTERESTS SYSTEM OF CHINESE CIVIL LAW

General Secretary *Xi Jinping* notes that ‘the implementation of the *Civil Code* is an inevitable requirement for adhering to the people-centered approach and protecting the realization and development of people’s rights and interests’, and that ‘if the *Civil Code* is well implemented, the rights and interests of the people will be protected by law, the communication activities between people will be more orderly, and the society will be more harmonious’. The *Civil Code* clearly states from the very beginning that its legislative purpose is primarily to ‘protect the lawful rights and interests of the persons of the civil law’. The *Civil Code* embodies the equal protection of rights in all aspects, including life and health, property safety, transaction convenience, a happy life, and personal dignity. It constructs a code system centered on the civil rights and interests system. The *Civil Code* improves and enriches the types of civil rights, forms a more complete civil rights system, perfects the rights protection and relief mechanism, and comprehensively confirms the proprietary rights of all types of subjects. The civil rights and interests system is a core element of the independent

knowledge system of civil law. Therefore, to construct an independent knowledge system of civil law in China, it is essential to center on civil rights and interests and study and interpret well the Chinese civil rights and interests system established by the *Civil Code*.

The private rights system constructed by the *Civil Code* is the basic content of human rights. General Secretary *Xi Jinping* stresses that the *Civil Code* ‘is of great significance for adhering to the people-centered development thinking, safeguarding people’s rights and interests in accordance with the law, promoting the development of our country’s human rights cause, and modernizing China’s system and capacity for governance’. Human rights include basic civil rights, basic political rights, and economic, cultural, social and environmental rights. Personal rights, proprietary rights, and personality rights are important components of human rights and the most basic human rights enjoyed by human beings. The right to life is the first and highest human right. Proprietary right reflects the most basic material needs of the people. Personality right demonstrates the value of personal liberty and dignity of a natural person. The protection of personality right is to make people live happier and more dignified. Although the connotation and extension of human rights continue to expand, from individual to collective, from material to spiritual, no matter how they develop, these basic civil rights are the basis for the development of various human rights, and they are also important contents that should be studied in the construction of an independent knowledge system of Chinese civil law.

III. IMPLEMENTING THE CORE SOCIALIST VALUES PROMOTED BY THE CIVIL CODE AND BUILDING A VALUE SYSTEM OF CHINESE CIVIL LAW

To construct an independent knowledge system of Chinese civil law, it is necessary to follow the spirit of important instructions of General Secretary *Xi Jinping*, interpret the basic principles of the *Civil Code* on equality, voluntariness, fairness, and good faith in civil activities, explain the basic requirements of the *Civil Code* on upholding the equality of subjects, protecting proprietary rights, facilitating transaction circulation, safeguarding personal dignity, promoting family harmony, and pursuing tort liability, and expound a series of new provisions, concepts and

spirits of the *Civil Code*'. The principle of voluntariness stipulated in the *Civil Code of China* is a manifestation of private law autonomy. The *Civil Code* stipulates the principle of good faith and runs through the entire code. The *Civil Code* embodies the humanistic care value of caring for people, respecting people and maintaining personal dignity. The *Civil Code* attaches great importance to family harmony, promotes family virtues, values family civilization construction, advocates mutual support, assistance and harmony among family members, carries forward the traditional virtues of mutual assistance and love, and advances the formation of a social trend of keeping watching for and helping defend each other, all of which fully demonstrate the traditional virtues of the Chinese nation. The principle of equal protection established by the *Civil Code* is the core principle of the *Civil Code*. It is the legal manifestation that we must unswervingly consolidate and develop the public sector and unswervingly encourage, support, and guide the development of the non-public sector. Article 4 of the *Civil Code* stipulates that 'all persons of the civil law are equal in legal status when conducting civil activities'. The principle of equal protection is also reflected in the legal rules for the protection of proprietary rights. Articles 113 and 207 of the *Civil Code* respectively stipulate the principle of equal protection of proprietary rights. Only by adhering to the legal principle of equal protection can hundreds of millions of people focus on innovation, purchase properties with confidence, invest boldly and operate with peace of mind. Only in this way can all types of market entities be treated equally, can a fair competitive market environment, policy environment and rule-of-law environment be created, and can equal rights, opportunities and rules be ensured. All these are the value foundations for building an independent knowledge system of Chinese civil law.

IV. UPHOLDING THE COMPILATION MODEL OF THE CIVIL CODE AS THE BASIS TO CONSTRUCT THE THEORETICAL SYSTEM OF CHINESE CIVIL LAW

China's Civil Code neither follows the three-book style represented by the *French Civil Code* nor simply copies the five-book style represented by the *German Civil Code*. Instead, the personality rights law and the tort liability law are set as separate books, and the general provisions of the

contracts book were used to perform the functions of the general part of the obligations law, thus forming a seven-book style arrangement. This model is unique in the history of world civil code legislation and is also an important contribution of *China's Civil Code* to the civil code legislation in the world. The seven-book style model is a development of the five-book style based on practice and demands of the times. In this model, the independent books of personality rights and tort liability are a major highlight and system innovation of *China's Civil Code*. The structure arrangement of the *Civil Code* is the external manifestation of the *Civil Code* system and also the legal basis and rule-of-law foundation for constructing the theoretical system of Chinese civil law.

V. REFLECTING THE CHINESE CHARACTERISTICS, PRACTICAL FEATURES AND CONTEMPORARY TRAITS OF THE CIVIL CODE, AND CREATING A DISTINCTIVELY INDEPENDENT KNOWLEDGE SYSTEM OF CHINESE CIVIL LAW

General Secretary *Xi Jinping* pointed out: 'The *Civil Code* systematically integrates the civil legal norms formed through the long-term practice for more than 70 years since the founding of the People's Republic of China, absorbs the excellent legal culture of the Chinese nation over more than 5,000 years, and draws on the beneficial achievements of the construction of human rule of law civilization. It is a civil code that reflects the socialist nature of our country, conforms to the interests and aspirations of the people, and meets the development requirements of the times, a civil code that embodies the equal protection of rights in all aspects such as life and health, property safety, transaction convenience, happiness in life, and personal dignity, and a civil code that has distinctive Chinese characteristics and keeps up with the practice and the times.' To build an independent knowledge system of Chinese civil law, it is necessary to maintain the 'Chinese characteristics and keep up with the practice and the times' in Chinese civil law as emphasized by General Secretary *Xi Jinping*, actively learn from the beneficial achievements of human rule of law civilization, and make them work for us after digestion and absorption. Based on China's modern market economy, we should start from China's practice, and face the Internet era, digital era, and artificial intelligence era. As we enter a digital era of information explosion, the Internet of Everything and

interpersonal communication, civil law should respond to the new issues of confirmation, circulation, utilization and protection of data property, and the new challenges encountered in the protection of personal rights and interests, such as privacy and personal information in the digital age. Civil law should also respond to the needs of environmental and ecological protection, implement the green principle of ecological and environmental protection, and highlight the development idea that ‘lucid waters and lush mountains are invaluable assets’. Since a large number of rules of the *Civil Code* come from judicial practice and are a summary of judicial practice experience, it makes the *Civil Code* maintain its vitality. Therefore, the construction of China’s independent civil law knowledge system must be oriented to China’s judicial practice and continuously serve the needs of practice.

The ancient Chinese legal system has a long history and has made important contributions to human legal civilization. Nowadays, as we enter a new era and move towards a new journey, we must be guided by Xi Jinping Thought on the Rule of Law, stay confident in the path, theory, system, and culture, have the courage to explore and innovate, accelerate the construction of an independent knowledge system of Chinese civil law, and make China’s contribution to the development of civil law in the world.

(Translated and Edited by Gong Li)