

The Normative Connotation and Legal Guarantee of Market Economy in China's Constitution

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Abstract: At this stage, the market economy has become an important force to promote China's economic development. Consolidating the core of market economic development, namely, economic equality and economic freedom, is an inevitable requirement for upholding and improving China's basic economic system, and it is also an important aspect of the country's strong guarantee for market economic development. Therefore, it is necessary to research the meaning of the market economy in the constitution, and at the same time clarify the constitutional norms' obligation to guarantee the implementation of state agencies to provide adequate constitutional guarantees for the development of the market economy.

Keywords: Market economy; Economic equality; Economic freedom; Legal protection

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The provisions of the Chinese Constitution on the market economy norms include the individual economy, private economy and other market economy regulations, as well as the regulations on private property rights, etc. This not only fully reflects the equality of the legal status of the market economy and the public economy, but also provides a sufficient constitutional basis.

1 The Normative Connotation of Market Economy in China's Constitution

China's the third constitutional amendment was formally passed at the Eighth National People's Congress in 1993. The amendment clearly stipulated

that China began to implement a socialist market economy, which caused the planned economy to be replaced and marked the Chinese market economy entered a stage of rapid development^[1].

The 1999 Constitutional Amendment clearly stipulated the nature of the market economy, that is, the market economy is an important part of the socialist economy, rather than a marginal "supplementary" status, marking that the market economy has been formally incorporated into the society economic system in the primary stage of socialism. The legal equal status of the market economy and the public economy means that they can participate in market competition on an equal and fair basis in the market economy.

Article 21 of the constitutional amendment clearly stipulates the way to protect the development of the market economy, that is, "the state encourages, supports and guides the development of the market economy, and supervises and manages the market economy in accordance with the law." Compared with the previous protection clauses, the characteristics of the current protection clauses are more distinct: the protection objectives are clear, that is, individual economy, private economy and other market economies, rather than the previous single individual economy or private economy; protection methods are more active, that is, encourage, support, guidance, and manage, instead of the previous guidance, supervision and management, the "encouragement and support" reflects the changes in the state's concept and policy of protecting the development of the market economy^[2]. Encouragement refers to encouraging fair competition between the market economy and the public sector of the economy, meanwhile, stimulating the vigor of non-public sector enterprises; support refers to the fact that the market economy, as China's basic economic system, should

develop and compete fairly with the public sector.

Article 22 of the Constitutional Amendment clearly stipulates that the state should protect citizens' legal private property. Private property rights were enshrined in the constitution in 2004, marking the country's attention to the safety of citizens' personal property and at the same time expanding the scope of constitutional protection for private property rights. Legal private property includes not only legal income, houses, etc., but may also include government and social relief, and good faith acquisitions. The amendment not only gives the state the obligation to protect citizens' legal property rights from the height of the constitution, but also gives citizens the right to protect their legal property rights from the perspective of civil rights. As the legal private property of citizens, market economy property should be able to enjoy the protection obligations provided by the state. At the same time, the market economy can exercise the right to participate in market competition and protect its own legal property in accordance with the law.

2 The core of the market economy development in the Chinese Constitution

The constitutional status of China's market economy has undergone a transformation from "supplement" to "an important part", and its protection methods have also undergone profound changes from "supervision, guidance and management" to "encouragement, support, guidance, and legal supervision and management". Transformation makes it flourish and plays an irreplaceable role in employment and taxation. However, compared with the rule of law to protect the market economy, there are still many aspects that need to be improved^[3]. Therefore, we must firmly grasp the core of the market economy development in the constitution, that is, economic equality and economic freedom, promote the equal development and free competition of the public economy and the market economy, and provide a strong constitutional guarantee for the development of the market economy.

2.1 Economic equality is one of the cores of market economy development in China's Constitution

Economic equality is the constitutional basis of economic equality. The first constitution enacted in 1954 clearly stated: "All citizens of the People's Republic of China are equal in law." Since then,

although the constitutions of 1975 and 1978 did not clearly stipulate "all equality in law," the 1982 Constitution also The provision of citizen equality was restored, that is, "all people are equal before the law" instead of "legal equality." The 1982 Constitution confirmed the scope of protection of equal rights, and this improvement has important historical and practical significance. At the same time, the entry of the right of equality into the constitution marked China's transition from discriminating against the private sector and other market economies to fully recognizing and emphasizing the market economy. Article 33 of the current Chinese Constitution stipulates: "All citizens of the People's Republic of China are equal before the law." As a basic right of citizens stipulated in the Chinese Constitution, the right to equality refers to citizens equally enjoying rights and performing duties in accordance with the law. If the right to life is the cornerstone of maintaining citizens' indispensable life and safety interests, then the right to equality is a necessary prerequisite for giving citizens equality and dignity in political, economic and social development. It should be noted that not only natural persons can enjoy equal rights, but also private legal persons. Private legal persons can become the subject of basic rights in the constitution and have been accepted by most experts and scholars^[4]. Then, as a part of a private legal person, the market economy subject should be protected by the Constitution. The private economy and other market economies should enjoy the same policy treatment and legal protection as the state-owned economy, because ensuring the equality of the market economy and the public economy is to ensure the orderly development of the market economy.

2.2 Economic Freedom One of the cores of market economy development in China's constitution

Economic freedom inevitably requires a fair, reasonable, honest and equal market environment, which is the basis for the vitality of the market economy and one of the cores of the development of the market economy^[5]. This is because economic freedom not only provides an open, inclusive and fair competition market environment for the development of market economy, but also the value brought by such free competition will bring vitality to the development of market economy. This kind of development vitality is the recognition of the market economy's participation in market competition, and it also provides a prerequisite and material basis for it to exert more freedom, so as to encourage market economy entities to carry out more

new economic activities in the future. Built on the basis of economic freedom, the aggregation of market economic entities will become a huge driving force for the stable and orderly development of the market economy.

3 The legal protection of market economy in China

The constitutional norms stipulate that the market economy is an independent legal norm system with the highest legal effect, which has direct effect on the formulation and implementation of laws^[6]. The activities and regulatory documents of state agencies should meet the requirements of the constitution and must not contradict the constitution. Moreover, economic equality and economic freedom are the dual cores of the market economy development in the Constitution. Therefore, in the competition of the market economy, the principles of equal protection and economic freedom in the Constitution must be thoroughly implemented. This requires the country's legislative, judicial, and administrative agencies to perform corresponding guarantees and implementation obligations.

3.1 China's legislature should establish a legal system based on constitutional norms

China's socialist legal system has gradually taken shape. The current important task is to comprehensively clean up and improve laws and regulations, and promptly abolish or adjust laws and regulations that are contrary to the equal protection of the market economy. According to the principle of "no conflict with the Constitution", all laws, regulations and other normative documents that conflict with the Constitution are invalid. In addition, laws and regulations that may infringe on the legal rights and interests of the market economy should be reviewed and revised in a timely manner. If it is not revised, the development of the market economy will be restricted, and the principle of equality between the public economy and the market economy will not be thoroughly implemented, which is not conducive to protecting the market economy. For example, in the field of criminal law, the crime of embezzling funds has the fact that it forcibly interferes with the development of the market economy, and it is difficult to adapt to the legal requirements of the new era to protect the market economy. At present, the market economy has many systemic restrictions on

personal safety and property safety, and it is difficult to solve system obstacles only by adjusting judicial interpretations or regulatory documents. Therefore, the legislature should clarify its protective attitude towards the market economy, promptly clean up and amend relevant laws, regulations and other normative documents, and effectively resolve various disputes in the development of the market economy. Improve the laws and regulations on employment and taxation of the market economy to provide adequate legal guarantees for the development of the market economy. In addition, the protection of private enterprises should not only stop at the level of individual cases of redress. It should further promote the improvement of legislation, systematically sort out the provisions of the current laws and regulations that are not conducive to the protection of private enterprises, and seek a permanent solution from the legislation.

3.2 Administrative agencies should treat the market economy equally

Over the past 40 years of reform and opening up, China's market economy has continuously achieved excellent results, but there are also a series of challenges, such as the transformation of government functions, market access restrictions, insufficient fiscal, taxation and financial support, and insufficient recognition by the international community. Therefore, administrative agencies should emancipate their minds, deepen reforms, treat the public economy and the market economy equally, and enable the market economy to enjoy the same resources and services as the public economy in terms of market access restrictions, policy subsidies and support. At the same time, administrative agencies should cut taxes and reduce the burden on the development of non-public enterprises. Furthermore, administrative agencies should determine the status of equal market players in the market economy, and create a free and equal market environment for their development, so that the international community can fully affirm the achievements of China's market economy. In addition, the government should strengthen the supervision, management and service of the market economy to create a good market environment for the development of the market economy. For example, when an administrative agency formulates regulatory documents, it must not formulate clauses that violate the principle of equality, and it must protect the legal rights and interests of market economy entities when conducting

administrative actions.

3.3 Judicial organization should provide effectively the judicial guarantee

In general, judicial protection refers to the judicial protection of the market economy, including the protection of the market economy by the judicial and inspection agencies. The first is to uphold the equal status of various market economy entities, including litigation status, legal status, etc., to provide the market economy with judicial guarantees equal to the public economy; the second is to uphold economic freedom, stimulate vitality, and participate in the market fairly for the market economy. Competition provides comprehensive judicial guarantees, maintains the order in which market economic entities legally participate in market competition, and actively improves the market environment for fair competition; third, it is necessary to maintain the personal safety and property safety of market economy individuals, and provide market economy individuals with complete judicial protection.

4 Conclusion

The market economy has become an important part of China's economy. It should escort the healthy development of the market economy from the

constitutional and legal levels, and provide sufficient legal guarantees for the smooth operation of the market economy. At the same time, timely revisions and amendments to the constitution and laws involving the market economy will enable the laws to continuously adapt to the development and changes of China's market economy.

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