

# The Connotation of the Principle of Honesty and Trustworthiness in Civil and Commercial Law and the Way to Improve it

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**ABSTRACT.** Since the reform and opening up, enterprises have entered the stage of equal competition, relying on the environment of market economy for production and operation. At this stage, the government's macro-control is mostly based on the development of the overall economy, instead of interfering in the fierce competition among enterprises, which results in some enterprises using bad means to obtain profits. This trend has seriously affected the development of domestic market economy. Honesty and trustworthiness have become an important principle of transactions in the 21st century. Scholars in civil and commercial law regard honesty and trustworthiness as the primary principle. This paper explores the importance of the principle of honesty and trustworthiness for civil and commercial law and the analysis of the way to improve it when the market economy develops to a certain height, hoping that it will be helpful for the scholars in the industry to study the relevant content.

**KEYWORDS:** Civil and Commercial Law; Honesty and Credit; Improvement Path

## 1. Introduction

The birth of civil and commercial law is based on market economy, aiming at maintaining the fairness of competition and market stability. However, the development of civil and commercial law needs a process. The law is constantly improving. At this stage, many illegal businessmen have drilled legal loopholes and operated illegally. Among all kinds of bad business practices, credit issues have attracted more attention. Normal business activities between enterprises are protected by civil and commercial law, but also constrained by traditional Chinese

virtues and integrity. Honesty and trustworthiness, as one of the important principles of civil and commercial law, is an important means to safeguard the double standards of law and morality in the operation of market economy. It not only regulates the enterprise's economic activities without infringing on the interests of others, but also puts forward the requirement of consciousness. This shows that the principle of honesty and trustworthiness is the basic principle in civil and commercial law, represents the compulsory function of the law, and carries out moral restraint on free competition in market economy. The principle of honesty and trustworthiness mainly includes two aspects: first, change without reason. Between enterprises and enterprises, enterprises and people are protected by law after signing contracts. If there is no reason to change the breach of contract, it is against the basic principle of good faith, which applies to most of the current business operations. Second, oral commitment, not every activity in the operation has corresponding legal provisions, economic activities themselves are complex and changeable. Many activities have the phenomenon of oral commitment. At this time, we need the principle of honesty and trustworthiness to solve disputes of interest, and even to supplement legal loopholes. Any statement that honesty and trustworthiness is only a kind of personal moral behavior is incorrect. Honesty is a virtue and a rule that can adjust civil behavior. Business behavior needs a strengthening of moral sense to ensure the norms of business behavior. Compared with mandatory punishment and moral condemnation, honesty has a stronger binding effect on immoral business behavior.

## **2. The Problems of the Principle of Honesty and Trustworthiness in Civil and Commercial Law**

### ***2.1 The concept of the principle of honesty and trustworthiness is too broad***

As one of the moral norms, the principle of honesty and trustworthiness has legal effect when it is incorporated into the civil and commercial law. As a legal principle, we should give guidance to the specific implementation of judicial acts and avoid abuse of power. However, there are many problems in the implementation of the principle of honesty and trustworthiness in civil and commercial law. The biggest disadvantage is that the concept is too broad, requiring business behavior between enterprises and enterprises, between enterprises and people to keep their promise and not to cheat, but no specific application measures are given, resulting in the principle of honesty and trustworthiness seemingly sublimated above the provisions, but it can only play a basic role in safeguarding, a legal principle without specific content, in some cases, the same as chicken ribs. At present, no country can clearly give the definition standard and actual connotation of the principle of good faith. In order to ensure the validity of the principle of good faith can be rationally utilized, it is necessary to improve the law.

## ***2.2 The principle of honesty and trustworthiness is seldom applied in civil and commercial law.***

From the perspective of China's civil and commercial law, many specific laws and regulations have implemented the principle of honesty and trustworthiness, giving reasonable guidance to commercial behavior. But in reality, the principle of honesty and trustworthiness is seldom applied. Only when specific laws and regulations are not applicable, can the principle of honesty and trustworthiness be applied. This also means that although the principle of honesty and trustworthiness provides a strong guarantee for the performance of contracts, and provides theoretical support for the creditor's rights law and tort law, its practical value in actual commercial acts is still relatively low.

## **3. Improving the Principle of Honesty and Trustworthiness in Civil and Commercial Law**

### ***3.1 Define the Connotation of the Principle of Honesty and Trustworthiness***

The characteristics of market economy lie in the diversification of competition, and it is easy to breed bad commercial means under the free competitive environment. In order to continuously improve the order of market economy and ensure the safety of domestic commercial environment, it is necessary to incorporate the principle of honesty and trustworthiness into civil and commercial law. Defining the specific connotation of the principle of honesty and trustworthiness has always been an important part of improving civil and commercial law in various countries. The different theories of the principle of honesty and trustworthiness drawn by experts and scholars in the industry directly lead to the differences in the application of the principle in different countries. Although they have played a certain role in commercial activities, in order to improve the law, we must clarify the specific connotation of the principle of honesty and trustworthiness, so that legal workers can have legal basis in judging cases and ensure the implementation of the principle of honesty and trustworthiness.

### ***3.2 Constructing a Perfect Social Credit System***

Honesty and credit is the traditional virtue of the Chinese nation. It has legal effect after it is incorporated into the civil and commercial law. In the market economy environment, integrity has become an important factor in the normal conduct of business activities, to protect the process of transactions due to credit problems. However, in order to improve the credibility of the whole society, we should not rely solely on the principle of honesty and trustworthiness in civil and commercial law, but should enhance the overall social atmosphere and the law to play a complementary role. Social credit is directly proportional to the integrity of business activities. When the whole country regards integrity as virtue and restricts personal behavior with morality, market transactions will also avoid many losses

caused by integrity. Therefore, it is necessary to construct a perfect social credit system, and at the same time to strengthen the punishment, so as to control the commercial fraud caused by credit problems. The domestic market has been plagued by the immoral behaviour of enterprises. From Sudanese red to gutter oil, and inferior milk powder, which has been heard to be discolored, has become the synonym of inferior products for a long time, greatly violating the rights and interests of domestic consumers and causing physical and mental losses to the people. For this serious violation of the principle of honesty and trustworthiness, we must build a sound integrity system and create a good market economy environment.

### ***3.3 Improving the Position of the Principle of Honesty and Trustworthiness in Civil and Commercial Law***

Perfect legal system is the guarantee of the normal operation of the market. Civil and commercial law, as a complementary law of market economy, has gradually failed to keep up with the development of the economy and the ever-changing illegal acts. Among them, the principle of honesty and trustworthiness is very backward in the civil and commercial law. We should improve its position and have specific legal forms to clarify the principle, so as to reduce the disputes caused by civil activities and the losses of the injured enterprises and individuals.

### ***3.4 Improving the Government's Supervisory and Restrictive Mechanism***

Civil and commercial law is the basis for judicial departments to implement laws. To establish a sound system of social integrity, the supervision of government departments is indispensable. The principle of honesty and trustworthiness must be put into practice to ensure its greater value. Under the background of increasingly complex market economy environment, there are too many uncertain factors that threaten the security of domestic market. Strengthening the government's supervision mechanism is of practical significance for improving the role of the principle of honesty and trustworthiness in civil and commercial law.

## **4. Conclusion**

After the reform and opening up, China's market economy has developed rapidly, and has now entered a stage of gradual improvement. However, in business activities, various illegal business practices arising from the problem of honesty and credit disturb the normal market order. In order to ensure the fairness of the market, it is urgent to put the principle of honesty and trustworthiness in the important position of civil and commercial law. In the process of perfecting the law, we need to give full play to the maximum value of each principle. This paper makes a detailed analysis of the problems arising from the principle of honesty and trustworthiness, and puts forward four ways to improve it: defining the specific connotation of the principle of honesty and trustworthiness, building a perfect

system of social honesty and trustworthiness, improving the status of the principle of honesty and trustworthiness in civil and commercial law, and perfecting the supervision and restraint mechanism of the government.

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