

Analysis of the Relationship between Law and Morality

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Abstract: *The public's compliance with the law is mostly the conviction of the moral value recognized by the public. The moral effect of the law can strengthen the practical effect of the law, so that the law can be effectively observed by people, and thus maintain the stability of the law. In the construction of socialist rule of law, the rule of law and rule of virtue complement each other, promote the core socialist values in the whole society, nourish the spirit of rule of law with morality, and strengthen the moral foundation of rule of law.*

Keywords: *The Moral Effect of Law; Legal Certainty; The Core Socialist Values; Construction of the Rule of Law*

1. Introduction

"The basis of the effectiveness of law is the core issue of law and justice". If the majority of people in the country refuse to accept the national legislation because they think it is unjust, then the law will be contrary to the inner conviction of the legal community. Such norms can only be implemented through the state's sanctions power and enforced to be observed by people. Whether a legal norm is effective and whether the public can effectively comply with it depends on whether the legal norm itself is fair or not. The public's evaluation of the legal norm indicates the degree of compliance with the legal norm. People living in different backgrounds have different reasons for obeying the legal norms. In the feudal society of past dynasties, the authority of the monarch was above everything, and the law was a mandatory rule backed by sanctions. Therefore, people absolutely obey the regulations issued by the monarch, but also have to obey the absolute legal authority and be grateful for the amnesty of the monarch; If the feudal monarch is a man of noble virtue and requires that the country's legal norms be based on the public's moral behavior, then the public has high requirements for obeying the legal norms, and the public is a law-abiding person as well as a noble moral person. Under the rule of religious theocracy in the Middle Ages, the law was divided into "divine law" and "human law". "human law" was a law related to justice and safeguarding interests, while "divine law" was "God's law", which had the effect of guiding secular law, that is, "human law", and the public obeyed "God's order"; With the loss of human dignity brought about by severe torture, people are no longer in a peaceful living environment, and social people are always on the edge of breaking the law, like walking on thin ice. With the continuous improvement of the concept of democracy and the rule of law, people's compliance with the legal norms under the concept of the rule of law, on the one hand, comes from the deterrence of the state violence machine behind the laws formulated by the state, Inspired by reason and justice, people will disobey the statutory laws. The moral review of the national statutory laws has promoted the improvement of the national legal system and the reconstruction of the legal system to a certain extent, so as to better protect the basic rights of citizens, and form the citizens' inner compliance and highest belief in the law^[1].

2. The Relationship between Law and Morality

"Morality is the sum of people's ideas, principles and norms about good and evil, justice and injustice, honor and shame, justice and partiality". Morality is shown by people's conscious inner compliance, while legal norms regulate people's external behavior. A person who abides by the law may not be a person of high morality, but a person of high morality may be a person who abides by the law. As the guideline for adjusting the code of conduct of the people, the relationship between law and morality is one of the inevitable problems in the process of legal research. Different schools at home

and abroad have their own academic opinions. The collision of ideas of different jurists provides us with ideas for studying the relationship between law and morality.

Shen Zi, a jurist of the pre Qin Dynasty in China, believed that "although the law is not good, it is still impossible"[2]. Although the law formulated is evil, it is better than no law as a standard of conduct. In the normal operation of society, there can be no legal rules, even if such legal rules are not in line with the moral acceptance of the people. Therefore, in the simple view of justice of the public, when the society is in a disordered state, a legal rule with a guiding standard of conduct plays an important role in the life of the public, and can be used as a guarantee for the people's peaceful life.

Aristotle, as one of the representatives of the natural law school, pointed out the "formulated law" and "obeyed law" in his discourse on good law. The laws formulated are not necessarily good laws. The so-called good laws are good laws formulated, and good laws must involve the moral demands of justice, reflecting the moral and justice concepts of the public. Therefore, as a legislature, it should also formulate laws that conform to the public's moral concepts. Only such laws can be universally obeyed. We should seek the statutory law in the impossibility and the good law in the statutory law. Only the good law can be the good law, the law that citizens obey, the spirit of rule of law can be embodied, and citizens' faith in the law can be formed in the field of rule of law.

Socrates was jailed because he was accused. His friends prepared a route for him to escape from Athens, but Socrates was unmoved. He believed that since the current laws were formulated on the basis of citizens' consensus, as a member of the city-state, he should also abide by the legal rules. Even if it was unfair, he should not disobey them because they did not conform to the moral feelings of the public. It was improper to escape the legal sanctions, Socrates finally obeyed this unjust law and paid the price of his life. From the perspective of maintaining social order, only when laws are observed by the public can they be authoritative, and their legal connotations such as fairness and justice be effectively displayed. Even unjust laws are much better than chaotic social order, and people's life in a disordered state is terrible. From "no law" to "law", from "formulated law" to "good law", the evaluation criteria for legal norms are formed based on the public's moral sense of justice, which also reflects the public's scrutiny and criticism of legal rules formed under the sense of moral expectation. Unfair laws bring only violence and damage to the legal order, all of which reflect the public's demands for legal fairness. In the simple view of legal justice of the public, the understanding of the legal norms is far less than that of the moral values they are convinced of. There may be different interpretations of the same legal norms, but the public has the same moral code. Under this code, not everyone is the offender of the law, but the public is worried about external moral condemnation. Therefore, the addition of moral norms in legal norms makes the implementation of legal norms more powerful.

In a society with the highest moral values, people's moral evaluation of individuals is far higher than their evaluation of their compliance with legal norms. Therefore, the legal system should be in line with citizens' moral expectations of justice, otherwise people will not comply. Laws formulated on the basis of consensus are also in line with moral justice, and such a society is just. Dworkin advocated that law should be based on morality, so as to achieve the unity of law and morality, while positivism advocated the separation of law and morality. Once law contradicted morality, its legitimacy would be denied, and the legitimate rights and interests of social members would be damaged. In the process of legislation, the law formulated by the legislator can bring justice and other values contained in law and morality. Hart strictly distinguishes law from morality, and believes that law is an effective rule established by the positive legal system, without considering the inherent justice of these rules. However, he did not point out that those rules that are completely incompatible with justice or people's sense of morality must be followed under any circumstances. This is criticized by Fuller and other natural law schools. Fuller opposes the separation of morality and law, that is, law cannot exist independently from morality^[3]. It has become a fact that moral concepts are included in legal rules. For example, treating people with integrity, failing to perform the contract constitutes breach of contract, and fraud constitutes fraud. If a law is effective, it should not be contrary to the standards of justice understood by the public. If a law formulated does not meet the moral demands of most people in society, it can be refused to comply with, and it will not play its due role as a norm and will no longer be effective.

3. Conformity of Law and Morality

"Evil law is also law" and "evil law is illegal" represent two different views of the positivist law school and the natural law school. "Evil law is also law" advocates that evil law is also effective, and

that law and morality are not related. As a rule order backed by sanctions, even if the laws formulated are immoral, they must be implemented. No one can go beyond the rule framework of the current law to maintain the authority of the law; "Evil law is illegal" advocates that evil law has no effect. The natural law that reflects human rationality is the basis of the current law. The formulated law must conform to the spirit of natural law before it can be observed by the public. Such a law is a good law. The law formulated against this background can maintain social justice and promote social development^[4]. The authority of law is maintained by its morality. When the effectiveness of a rule or a set of rules is threatened by moral resistance, its effectiveness may become a meaningless shell. In the eyes of the public, the immoral laws implemented by force only safeguard autocracy, arbitrariness and irrationality, and indulge the occurrence and expansion of this phenomenon, which will inevitably lead to more serious consequences than the demise of this law.

"Although it is a fact that law originates from morality, in the process of gradual growth, they have embarked on two roads that are not following each other. Although these two roads can look at each other, they are not parallel left and right tracks without intersection, but more like cross winding rugged mountain roads". When the system of national statute law collapses or there is a gap in the rule of law, the moral principles against the background of natural law become the standard for the public to abide by the current social rules. Natural law is the standard to test and supervise national laws, which is also the task of natural law. When national laws go against "justice" and become "evil laws", natural law should limit its application. Natural law is the standard to measure justice. The positive law formulated by the state must be based on natural law to reflect the standard of justice. Otherwise, the formulated law is unjust, invalid and evil. Legal positivism emphasizes that national statutes exclude moral factors. "Law belongs to law and morality belongs to morality", which is contrary to the moral basis of statutory laws proposed by natural law. National statutory laws are supported by the mandatory orders of sovereigns. State power is the basis for the effectiveness of laws.

How perfect a legal norm is in terms of substance and how detailed it is in terms of procedure, but it cannot be implemented, and it also does not play the normative role of the law. The formulation of totalitarian national laws and the formulation and implementation of dehumanizing laws triggered by the legal thought of positivism have expanded the punishment of the legal system with the backing of the national coercive force and sanctions. The people are on the edge of breaking the law without knowing it. People fall into the abyss of fear, which has caused the destruction of justice, caused the thinking of the legal order of positivism, and triggered the criticism of empirical law. With the rise of new natural law, legal scholars in this field put forward the connection between law and morality rather than separation, and focused on criticizing the injustice of law under totalitarian rule caused by the exclusion of moral factors from statutory law by positivism. Fuller advocates the internal unity of law and morality, and "the evil law is illegal", so as to ensure the legitimacy of the law^[5]. Under the autocratic power, the "evil law" system has practical effect only because of fear of the state's coercive force, but does not have the moral effect of law, so people can refuse to obey^[6]. So the public, inspired by the moral principles, launched a confrontation against the "evil law" under the totalitarian rule.

In the feudal society of China, the legal norms under the guidance of legalists and Confucianism had different normative roles. The final integration of "rule of law" and "rule of virtue" resulted in the formation of a national legal governance model with Confucianism as the main idea and criminal law as the auxiliary^[7]. Looking at the national legislation in feudal society, although the national legislation was a legal system under the autocratic rule, it also embodied a certain humanistic spirit. The supreme ruler requires people with high moral integrity. In the national selection of talents, the central and local managers obviously need to meet this requirement, which is reflected in the formulation of laws. The elements of moral integrity must conform to the country's concept of governing the country. The laws and regulations formulated by the country must conform to the moral expectations of the people. Otherwise, the laws formulated can only rely on the suppression of harsh laws, rather than the obedience of good morals. Once the people's disobedience to the suppression reaches the maximum value, The change of dynasties will occur and the legal system will be reconstructed. The rulers of the Western Zhou Dynasty, on the basis of the legitimacy of the political power, explained the divine authority of the monarch, requiring the rulers to "match heaven with virtue", thus putting forward the legal proposition of "being clear in virtue and cautious in punishment" at the level of the legal system, as the guiding ideology of national legislation and handling judicial affairs. Although they were in a slave society, the rulers of the Western Zhou Dynasty combined moral education with penal measures, and should not "indiscriminately punish the innocent and kill the innocent", To create a special "rule of virtue" society by making laws in line with morality and prudent punishment^[8]. Legalists respect the law, and strive to use strict legal systems to regulate people's behavior. "Law is accurate" rather than "etiquette". Since Shang Yang brought law into the Qin Dynasty, he reformed the system of Qin State.

After several years of development, Qin State has gradually grown stronger and stronger. Since then, it has unified the six countries. During the establishment of the Qin Dynasty, the debate between "rule of law" and "rule of virtue" has yielded results. That is to say, legalism has played an irreplaceable role in the reunification of Qin State. However, under the rule of jurists, the severe punishment and severe laws made the people at the edge of breaking the law at any time, and everyone was in danger. In particular, the Lianzuo system, in which neighbors monitored each other, made people at the edge of breaking the law at any time if a family committed a crime. It planted seeds for the decline of the Qin Dynasty. The Confucianists made etiquette and introduced etiquette into law. The Confucian moral concept was injected into the theory of "rule of law". In the integration of Confucian etiquette and law, there was a part of the value concept of justice and fairness, which reflected a certain simple concept of natural law. The rulers should "govern with virtue". The law should not force people into difficulties. It advocated that fathers and sons conceal bad deeds from each other, which was respected by successive generations of rulers. Except for specific crimes, families can conceal each other. As one of the principles of conviction and sentencing, it is in sharp contrast to the fact that one of the legalists committed a crime and the whole family sat together. Under the rule of Confucianism, the Confucian family ethics has gradually been incorporated into the various legal norms of the state's enacted laws. The legal thought of "morality dominates punishment" in the criminal law is "consistent with propriety" in the Tang law, and the trend of legal Confucianism has gradually strengthened.

From the general experience that the legal system of autocratic countries led to the demise of the country, we can see that a person can do many things with a bayonet, but it is not possible to rely on it for a long time. Under the call of the spirit of the rule of law, it can be seen that the laws of autocratic countries, as a tool to maintain their autocratic rule, do not conform to the values of fairness and justice advocated by natural law. The extreme and autocratic ideas are extremely prominent, which is different from the effect of good laws that come from the inner compliance of the public. The basis of the effectiveness of the laws of autocratic countries comes from the authority of the monarch. Once the concept of autocracy is added to the laws, the people are struggling, everyone is in danger, legal norms no longer have their due effect, and moral norms no longer play their due role. Under the authoritarian rule, fairness and justice are challenged, and the balance of fairness and justice is no longer tilted to either side, but pointing to authority. With the addition of moral factors in the law, the legal spirit of freedom, fairness and justice embodied in natural law conforms to people's moral expectations, causes people to abide by the law, and achieves effective rule over the country.

4. Moral Embodiment of Legal Norms

The role of law in promoting and safeguarding morality is mainly to legalize some morality through legislation, and to confirm and strengthen the value appeal and standard implementation of socialist morality through law. The content of moral norms embodied in laws and people's compliance with legal norms all reflect the people's pursuit of fairness and justice.

Legal norms can be obeyed by the public, not only because of the educational and punitive role of legal norms, but also because these legal norms themselves have inherent moral value, legitimacy and justice. Morality can promote the formulation, modification and abolition of laws through legitimacy evaluation, and laws can also promote the improvement of morality and restrict immoral behaviors through legislation. In daily civil activities, we should uphold fairness and justice, be honest and trustworthy, not violate public order and good customs, and not conduct civil activities at the cost of destroying the basic moral bottom line. A legal system with moral details will cause the public to obey the legal system, play the role of legal norms, play the role of legal education, and guide the public to follow good legal norms.

The law curbs illegal and criminal acts through prohibitive and punitive provisions, but also has an educational role to prevent the occurrence of illegal and criminal acts to a certain extent, and regulate the behavior of the people through strict liability system. In the process of formulating the law, the acceptance of the public's moral feelings should be taken into account, and the public should be encouraged to do good without fear of assuming legal responsibility. Articles 183 and 184 of the Civil Code of the People's Republic of China (hereinafter referred to as the "Civil Code") have included acts of bravery for good in the scope of adjustment of civil laws, and granted the right to claim damages and compensation for damages to the perpetrators of acts of bravery for good, so that the perpetrators of acts of bravery for good will dare to stand up, and the victims of acts of bravery for good will have their losses remedied, correcting the social ethos that passers-by are afraid to help when they fall. Article 979 of the Civil Code provides for a no cause management system. "If the administrator has

suffered losses due to management, he may request the beneficiary to give appropriate compensation". Courage for righteousness and management without cause are incentive systems for good people, forming a good social custom. Article 1009 of the Civil Code stipulates that medical scientific research activities such as human genes and human embryos shall not violate the requirements of ethics and ethics, and standardizes the medical practice guidelines for medical activities. Only by not doing evil can we achieve good deeds^[9].

In the modern theory of rule of law, law is the embodiment of fairness and justice, while morality is the value pursuit of fairness and justice in people's hearts. The rationality of legislation reflects fairness and justice, conforms to people's moral outlook, and responds to people's moral demands. Any vulgar and vulgar abuse is an insult to the citizen's personality. The personality rights section of the Civil Code stipulates the relief system for infringement of citizens' personality rights. Article 7 of the Civil Code stipulates that civil subjects should be honest and trustworthy in civil activities and abide by their promises. In civil activities, people who break their promises will not only be morally condemned, but also be regulated by law in civil activities. In contract transactions, both parties conclude contracts to meet their actual needs. On the one hand, the performance of the contract is based on the punitive measures foreseen for non performance of the contract, and on the other hand, it is based on the moral pressure generated by non observance of the contract. People's moral condemnation of dishonest people has promoted the establishment of the disciplinary system for dishonesty.

The expansion of moral norms is difficult to grasp, unlike legal norms, which are formulated artificially. If there is no transition between national laws and morals, and there is a gap between the public and legal norms, legal norms cannot play their due role, which will also make people feel morally powerless. Through the highest legislative organ of the country, the universal moral code of conduct will be incorporated into the national legal norms to add moral strength to the construction of the national rule of law. Public order and good customs are the moral judgments of people's hearts, and everyone has their own internal judgments. With the promulgation and implementation of the Civil Code, "public order and good customs", as one of the basic principles of civil law, will no longer be the moral judgments of people's hearts, but an important basis for judging the effectiveness of civil acts. We will introduce moral and ethical norms into the application of law, so as to better achieve the agreement between law and morality. Promote the formation of good social ethics and reflect the needs of social fairness and justice. Filial piety is a traditional virtue of the Chinese nation. The feudal dynasty has always regarded filial piety to parents as a part of the national law, as the core content of social moral education, and vigorously promoted filial piety in society. In the criminal law, "unfilial" is regarded as one of the ten crimes that seriously endanger the feudal ethics. Under the modern spirit of rule of law, discussing the obligations between family members is the legalization of the family moral obligations of all parties in a modern harmonious family, It is not the family ethics of the feudal era. Article 1126 of the Civil Code stipulates that men and women enjoy equal inheritance rights. Article 18 of the Law of the People's Republic of China on the Protection of the Rights and Interests of the Elderly stipulates that family members who live separately from the elderly should often visit or greet the elderly. Article 261 of the Criminal Law of the People's Republic of China (hereinafter referred to as the "Criminal Law") stipulates the obligation of assistance between family members when they are in difficulty. Failure to do so constitutes a crime of abandonment. Citizens' freedom of marriage is not subject to interference by anyone. It is prohibited to buy, sell or arrange marriages, force one party to the other, or interfere with any organization or individual. This is not in line with the moral demands of the people in the new era for marriage. If the circumstances are serious, it will also violate the crime of violent interference in marriage freedom as stipulated in Article 257 of the Criminal Law. High altitude throwing has always been an act that does not conform to social public morality and needs to be regulated under legal circumstances. Article 1241 of the Civil Code stipulates that if high altitude throwing causes damage to others, the infringer shall bear the liability for tort. The Criminal Law Amendment (XI) of the People's Republic of China clearly stipulates that high altitude throwing, which causes serious acts, shall be punished accordingly. In China's current legal system, legal norms reflect the requirements of socialist morality, such as honesty and trustworthiness as one of the principles of civil law, respect and protection of human rights, and the family ethics system in marriage and family. However, we should recognize that not all moral requirements can be legalized. For example, the love relationship between men and women does not belong to civil legal relationship adjustment, and it is not appropriate to raise such relationship to legal norms.

5. The Core Socialist Values and the Construction of Rule of Law

The socialist rule of law requires a closer relationship between law and morality. In the construction

of socialist rule of law, the proposition of combining rule of law with rule of virtue has received more and more attention. The construction of the rule of law must conform to the moral norms, and the law is the lowest moral requirement. The legal norms must be based on morality. The moral basis different from the traditional legal system is to safeguard feudal privileges. Under the socialist spirit of the rule of law, we should strengthen the role of law in promoting moral construction, embody moral concepts by rule of law, and achieve public recognition and compliance with legal norms. The construction of socialist rule of law embodies the basic value of people-oriented. Only when the laws formulated by the state are accepted by citizens, can they obtain full and lasting effect^[10]. We will safeguard social fairness and justice, promote the construction of a social integrity system, and integrate socialist core values into the whole process of building a country, a government, and a society under the rule of law.

The Constitution is the product of people's rights struggle. The values of democracy, equality and freedom are confirmed by the Constitution to safeguard the legitimate rights and interests of individuals. Marx believes that, with the establishment of socialism, the role of new morality is constantly enhanced, which increasingly affects the moral principles in socialist law, so that "legal norms gradually approach moral norms". It is feasible to incorporate the appeal of public morality into the Constitution. The basic social moral principles have been reviewed by the representative legislature and elevated to constitutional norms. Through the value symbols confirmed by the Constitution, they guide the formulation of subordinate law principles and rules. As a force to unite members of the society, values play an important role in maintaining the consistency of law. The premise for the legal order to play its role is that it must reach the minimum of the moral norms that are considered binding. Article 24 of the Constitution of the People's Republic of China stipulates that the state advocates socialist core values. As the moral expectation of the socialist public, the socialist core values have been accepted by citizens, making the laws formulated by the state obtain lasting effect. As the fundamental law of the country, the Constitution guides the formulation of other subordinate laws of the country to better implement the constitutional spirit of socialist core values. Article 1 of the Civil Code stipulates that "promote socialist core values"; Article 183 stipulates that "if the infringer suffers damage due to the protection of the civil rights and interests of others, the infringer shall bear civil liability, and the beneficiary may make appropriate compensation"; Article 184 stipulates that "if the act of voluntary emergency relief causes damage to the aided person, the salvor shall not bear civil liability". Helping others and acting bravely for good is the embodiment of the sense of social justice. We should not allow those who act bravely for good to be treated unfairly. We should promote the positive energy of society, promote good social practices, and reflect the core values of society.

6. Conclusion

The combination of rule of law and rule of virtue enhances the moral connotation of rule of law, transforms the basic moral norms that meet the requirements of socialist core values into legal norms, embodies the moral concept with rule of law, and nourishes the spirit of rule of law with morality. We will ensure that the construction of a socialist culture of the rule of law is for and dependent on the people, and continue to meet the growing needs of the people for democracy, rule of law, fairness and justice. We should integrate socialist core values into all aspects of the whole process of building a socialist culture of the rule of law, so that the rule of law and the rule of virtue complement each other. We should strengthen the supporting role of morality in the culture of rule of law, the role of morality in promoting the construction of rule of law, and build a solid moral foundation for the rule of law. To enhance citizens' voluntary compliance with socialist laws, we should further strengthen legislation on socialist moral construction, improve the current system of laws and regulations, and promote the establishment of a socialist country, government, and society ruled by law.

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