Discussion on the Value of People Combination of Notarization
On the human conformity value of notarization

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Abstract. The value of notarization includes weak judicature, prevention, efficiency, service and human joining. Among them, human joining is the unique value of notarization compared with other dispute resolution mechanisms. Because the high degree of human joining not only adapts to China's social situation and social atmosphere, but also helps to prevent and thoroughly solve disputes. Thus promoting the construction of a social governance system of co-construction, co-governance and sharing. Moreover, the human joining echoes and depends on the moral requirement of honesty and credit, which is manifested in the weak judicature of notarization and its connection with commerce. If the value of the human joining of notarization can be paid attention to in the new round of judicial reform, then the notarization system with Chinese characteristics will certainly play a positive role in promoting the construction and improvement of the socialist legal system with Chinese characteristics.

1 Introduce

In recent years, China has increasingly attached great importance to the practice related to the alternative dispute resolution (ADR) mechanism in the exploration of judicial reform in the civil and commercial fields. In this regard, the Supreme People's Court's Opinions on Deepening the Comprehensive Coordinated Reform of the Judicial System of the People's Court—Guideline of the Fifth Five-year Reform of the People's Courts (2019-2023) expressly stated that "the parties should be guided and encouraged to choose alternative means to resolve disputes". Moreover, at the Central Political and Legal Work Conference in early 2019, General Secretary Xi Jinping proposed that "the alternative dispute resolution mechanism should be regarded as a top priority", thereby emphasizing the shift in the focus of dispute resolution.

At present, ADR mechanisms with explicit legal basis in China mainly include mediation, arbitration, notarization, ADR attached to courts, administrative mediation, administrative reconsideration, and administrative adjudication. In comparison with traditional litigation, notarization pays more attention to the consensus of both parties. Moreover, notarization, as a kind of relief in advance, plays a preventive role in dispute resolution to a certain extent. Compared with other alternative dispute resolution mechanisms, notarization is not only more efficient but also more thorough in dispute resolution due to its weak judicature. In these value pursuits of notarization, people combination occupies a unique position. Compared with other alternative dispute resolution mechanisms, notarization is beneficial to respect the consensus between the parties to a greater extent and ensure the complete resolution of disputes, thus maintaining social order and improving the social governance system.

2 Diversified Value of Notarization

From a traditional perspective, the notary system is solely regarded as a system of notarization and endowing relevant documents with legal probative force. Nevertheless, based on the exploration and practice in recent years, we have progressively realized the diversified value pursuit of notarization.

2.1 Weak Judicature

Conceptually, notarization is defined as an act to certify the authenticity and legality of civil legal acts, facts, and documents of legal significance according to the application of a party concerned[1]. Also, the foregoing concept accords with our understanding of notarization in the traditional sense: a notarization is an act that endows civil legal acts, facts, and documents with probative force. Essentially, this kind of probative force can be interpreted as a manifestation of notarization judicature.

The notary organization, however, is not a state organ. In 2000, the Plan on Deepening the Reform of Notarization Work promulgated by the State Council and the Notarization Law promulgated in 2005 made it clear that the notary organization after the reform is no longer an administrative organization, but a public-interest and non-profit enterprise legal person that can exercise the national notarial functions, independently engage in businesses and assume responsibilities, and operate per

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market rules and self-discipline mechanism\cite{15}. Hence, the author generalizes the above value pursuit of notarization as weak judicature. Since notary organizations embody a certain degree of judicature, they inevitably play a corresponding role in promoting the settlement of disputes, which is reflected in the prevention of disputes by notarization.

2.2 Preventability

The most significant difference between notarization and litigation is that notarization acts as a mechanism for settling disputes in advance. Compared with litigation characterized by "taking countermeasures after suffering losses", notarization activities are committed to "taking preventive measures before suffering losses". In other terms, the purpose of notarization is to clarify the legal relationship that may cause a dispute through the public confirmation of the authenticity and legality of the existing facts before the dispute occurs, intending to prevent the occurrence of disputes\cite{18}. It can be seen from this that notarization, as a means to prevent disputes, can play a positive role in settling disputes before they arise.

The prevention of disputes by notarization can also be summarized as "governance upon the source of litigation", which, as its name implies, refers to the governance of litigation at the source of litigation, thus reducing or even avoiding litigation. In addition, notarization, as a dispute resolution mechanism, is widely used in civil and commercial fields, in which both parties typically show their pursuit of time efficiency and maintaining interpersonal relationship. In such cases, the settlement of disputes before they arise is undoubtedly beneficial to safeguarding the interests of both parties and effectively maintaining social order. More importantly, this kind of dispute resolution in advance obviously reflects a pursuit of efficiency.

2.3 Efficiency

The notarization procedure is more convenient and faster than the litigation procedure. Under normal circumstances, a notarization institution shall issue a notarial certificate to the party concerned within 15 days after it accepts the notarization request. In contrast, civil proceedings usually take at least one month from filing to opening. This actually reflects the notary system's pursuit of efficiency.

Thus it can be seen that the notary system has a solid pursuit of efficiency. Moreover, even if the settlement of disputes requires the help of litigation procedures, notarization can also play a certain auxiliary role in litigation procedures, thereby improving litigation efficiency.

2.4 Serviceability

A notary organization is neither an administrative organization nor a public institution, but an intermediary organization with the nature of legal service. Also, the nature of its legal services is reflected in diversified aspects. More precisely, first and foremost, the establishment of notary organizations and the exercise of their notarization function must be in accordance with the provisions of the Notarization Law, which marks the embodiment of its legality. Secondly, notary organizations are not for profit. In other terms, it aims to undertake certain social functions and social responsibilities for public welfare, rather than purely pursuing interests. This is the public welfare requirement for notary organizations to serve society. Moreover, notaries typically have high legal literacy. In this connection, the professional access standards of notaries are the same as those of judges, and both of them need to pass the Nation Legal Professional Qualification Examination. The above requirements in turn enable notaries to carry out relevant work in a more professional way. Admittedly, this professionalism is also an inherent requirement and guarantee for serviceability.

2.5 People Combination

The concept of people combination can be classified into broad sense and narrow sense. Among them, the narrow-sense concept of people combination originates from commercial law and is generally used to describe the internal relations of each partner in a general partnership, with the core content of respecting the consensus of all parties. Notarization can only be implemented on the premise that both parties reach a consensus and jointly submit an application to a notary office. This prerequisite further distinguishes notarization from litigation. Although some other alternative dispute resolution mechanisms, such as mediation, also attach importance to the consensus of both parties, the protection of any kind of mediation for the parties' people combination is generally weaker than that of notarization. On this point, the broad-sense people combination of notarization is reflected in the maintenance of social relations and social order, which reveals a higher level of value pursuit. In other words, based on the consensus of both parties, notarization is used as a means to prevent or resolve disputes in an attempt to maintain the harmonious relationship between various social subjects and the stability of social order and to build a social governance system of co-construction, co-governance, and sharing. In short, it is one of the embodiments of the inherent requirements of the socialist rule of law system with Chinese characteristics by the value pursuit concerning the people combination of notarization.

3 People Combination as a Unique Value of Notarization

Among the numerous value pursuits of notarization, people combination is a unique one. The reason lies in that the value pursuit concerning the people combination of notarization not only meets the social situation in China but also echoes the policy requirements of the superstructure. Concurrently, it is also conducive to the exertion of the functions of notary organizations, thus promoting the construction of social governance system in China.
3.1 People Combination as the Inherent Pursuit of Notarization

The narrow-sense people combination attaches great importance to the pursuit of consensus between the two parties, whereas the broad-sense people combination emphasizes the pursuit of a harmonious social relationship. Only when both parties prevent and resolve disputes based on consensus can we better realize the construction of the social governance system.

From everlasting, China has advocated the traditional idea of "taking peace as the best option", which has been further implemented in modern times. China is an acquaintance society that highly values reciprocity. In general, the public wants a harmonious relationship between people, rather than a confrontational relationship. In this context, the value pursuit concerning the consensus between people, rather than a confrontational relationship. The reason is that only when both parties jointly apply to a notary office based on consensus will the notary office carry out the corresponding notarization. Meanwhile, notarization, as a relief in advance, can prevent possible risks and disputes in the future.

The value pursuit concerning the people combination of notarization is beneficial to the construction of a social governance pattern of co-construction, co-governance, and sharing. In this regard, General Secretary Xi Jinping pointed out that it is imperative to "perfect the social governance system characterized by Party committee leadership, government responsibility, social coordination, public participation, and legal guarantee, to create a social governance pattern of co-construction, co-governance, and sharing". On the same note, the value pursuit concerning the people combination of notarization perfectly tallies with the requirements of social governance pattern for "social coordination, public participation, and legal guarantee". After all, notarization, as an alternative dispute resolution mechanism, essentially belongs to a kind of private relief, and therefore inevitably requires "social coordination". Additionally, the value orientation of people combination reflected by notarization coincides with the requirement of "public participation". The "legal guarantee" is embodied in the supporting role played by the Notarization Law regarding the legality and authority of notary activities.

3.2 People Combination as an External Representation of Notarization Functions

In terms of the establishment and the exercise of functions and powers, notary organizations reflect the implementation of the value pursuit of people combination, which is mainly reflected in the neutrality, non-profit, communication, and professionalism of notaries in dispute resolution.

More precisely, first of all, the neutrality of the notary organization is reflected in the fact that it conducts corresponding notary activities between the two parties according to the materials and requests provided by the two parties. This neutral position is similar to that of a judge in the proceedings. Nevertheless, given that the court acts as the judicial organ of the country, the judge may take into account the administrative factors in the trial and mediation, and thus use some specific powers to facilitate the realization of the mediation results.

Secondly, the communication of the notary organization conceptually refers to the notary organization holding the position of an intermediary and having no direct legal relationship with both parties involved in the notarization, and the notarization certificate issued by the notary organization is a legal document issued in accordance with the actual wishes of the parties and the legal provisions in accordance with the law. This is not only the duty of notary organizations but also their important duty to safeguard the law. In the meantime, the notary organization also serves as a bridge and link between the two parties concerned.

Lastly, the professionalism of notaries has a certain degree of protection for the people combination. In general, the professional access of notaries involves a prerequisite, that is, they are required to pass the legal professional qualification examination. Meanwhile, Article 19 of the Notarization Law demonstrably stipulates the professional qualification access of notaries under special circumstances: "Where a person who was engaged in teaching and research of law and has a senior professional technical title, where a person who was a civil servant or lawyer, has a university diploma or above and has full 10 years of experience in adjudication, procuratorial work, legal affairs or legal service, if he has left his post and has passed the evaluation, he may take up the job of a notary." As outlined above, the people combination of notary organizations in terms of establishment and exercise of functions and powers is reflected in the high standards of professional access and legal quality requirements for notaries, as well as the neutral role of notary organizations in exercising their functions and powers and communicating with both parties, to prevent or completely solve disputes to maintain the stability of social order, thereby effectively pursuing the people combination.

3.3 People Combination Helping to Promote the Implementation of the Principle of Good Faith

Notarization is generally used in the field of civil and commercial affairs, among which the actors tend to give priority to the adoption of morally binding force to regulate the corresponding civil and commercial acts. Only when the role of moral norms fails can legal means be chosen to resolve the relevant disputes. In this regard, the value pursuit concerning people combination of notarization is fairly beneficial to the connection between the moral norm model and the legal norm model. Particularly, notarization can make people have a kind of psychological expectation for the orderliness of the transaction results by endowing the transaction behavior of people with a true and legal effect approved by the state, and exert strong psychological pressure on the fluky psychology of intending to evade the obligations and responsibilities, thus urging people to reasonably arrange the affairs based on being at ease with the transactions already reached.
4 Role of the People Combination of Notarization in the Construction of the Socialist Rule of Law System with Chinese Characteristics

The value pursuit concerning people combination of notarization is not only a response to the policy requirements of the superstructure but also an implementation of some concepts in the new round of judicial reform. If the abovementioned value pursuit can be highly valued and used to build a notary system with Chinese characteristics, the value pursuit concerning people combination of notarization will surely perfect the construction of the socialist rule of law system with Chinese characteristics, as well as enrich its connotation.

4.1 People Combination is Conducive to the Implementation of the "Eleven Adherences"

General Secretary Xi Jinping puts forward "Eleven Adherences" in his request for law-based governance on all fronts to standardize the practice and construction of the socialist rule of law system with Chinese characteristics. The value pursuit of the notary system with Chinese characteristics can be carried out and implemented according to three "adherences", namely, the adherence to the people-centered principle, the adherence to the path of law-based governance under Chinese socialism, and the adherence to the construction of the socialist rule of law system with Chinese characteristics.

The adherence to the people-centered principle coincides with the value pursuit concerning people combination of notarization. In addition, the insistence on the path of law-based governance under Chinese socialism, to some extent, is consistent with the adherence to the socialist rule of law system with Chinese characteristics. At present, numerous countries with relatively developed judicial systems in the world are exploring alternative solutions to civil and commercial disputes, as is China. Within this context, the notary system with Chinese characteristics marks an attempt made by China during the exploration of the ADR mechanism.

4.2 People Combination is Conducive to Ensuring and Promoting the Development of the Socialist Market Economy.

Notarization plays a role in regulating and safeguarding the socialist market economy. Although the transaction is a normal state in a market economy, it is typically accompanied by risks and uncertainties. To reduce the impact of risks on transactions or avoid risks, relevant personnel have further formulated some rules and systems represented by the notary system to ensure the realization of transaction purposes.

Notarization is conducive to maintaining market order and promoting the smooth development of transactions. Undoubtedly, this kind of trust-based civil and commercial activities will enrich the connotation of the socialist market economy and thus promote its development.

4.3 People Combination Conforms to the Development Trend of Justice in China

China pays more attention to solving disputes by litigation in the current practice of civil dispute settlement. Compared with other alternative mechanisms, however, litigation has exposed the problems of administerization and excessively-long period in practice. Such practices make it difficult for disputes to be completely resolved, thus laying a curse for social conflicts. On the same note, an excessively-long dispute resolution cycle is not conducive to the construction of a harmonious society. For these reasons, the alternative dispute resolution mechanism has attracted the attention of reformers. Among these alternative dispute resolution mechanisms, notarization stands out with its unique value concerning people combination. Whilst preventing and resolving disputes, the value pursuit concerning people combination of notarization fulfills the value pursuit of efficiency. More importantly, it can promote the formation of a social atmosphere oriented by honesty and credibility, and then promote the improvement of the social governance system of co-construction, co-governance, and sharing.

5 Conclusion

To sum up, the judicial reform actively implemented in China reflects a response to the people's demands for a better life in the field of rule of law. At present, the people not only have higher demands in life but also have established certain understanding and requirements for the judiciary. "The credibility of notarization depends on the establishment of the effectiveness of notarization. At the same time, this kind of credibility is specifically reflected in the entity and procedural justice of notarization. " Still, "the contradiction between the people's growing needs for a better life and unbalanced and inadequate development" is reflected at the judicial level. In response to the abovementioned contradiction, China has been actively taking relevant measures to improve judicial systems. According to the current situation, China's emphasis on construction of the notary system with Chinese characteristics also marks a positive attempt. The author firmly believes that the construction of a notary system with Chinese characteristics centers on the value pursuit concerning people combination of notarization can not only meet the people's growing demand for judicial resources but also enrich the connotation of the socialist rule of law system with Chinese characteristics. Simply put, it is of great practical and epochal significance to insist on the value pursuit concerning people combination of notarization to construct the notary system with China characteristics.
Acknowledgments

Refer to Sichuan Law Society Notary Law Society 2022 Notary law research topic key topic of our Notary case guidance system research phase achievements.

References.


