

A Study on the Multiple Dispute Resolution Mechanism in Rural China under the Influence of Legal Culture

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Abstract

In the context of China's comprehensive construction of socialist law system, where legal culture is increasingly influencing how to resolve conflicts and disputes in rural areas. Although all of these approaches have their flaws and drawbacks to some extent, it is still important to summarize and generalize them as ways that have already existed and been used. These approaches and methods are mainly the following. It is also the process in which the universal democracy and the legal system content were disseminated into the rural social life as culture. Thirdly, the linkage. The new rural legal culture is not a fixed pattern, which reflects its flexibility and diversity. The vast number of rural areas in China have different characteristics, requiring that the new rural legal culture must have good adaptability, in order to form the expansion of the entire rural society. The actual situation of different areas, timely adjustment of specific forms, connection with the reality should be considered as a guide to the new rural legal culture to disseminate.

Keywords

Multiple Dispute Resolution Mechanism; Characteristics Of The Legal Culture; The Current Situation; Construction Of A Multiple Dispute Resolution Mechanism.

1. Introduction

Dispute resolution has long been one of the important elements of social governance at the grassroots level in rural China. Grassroots social governors have been constantly exploring diversified mechanisms for resolving social conflicts and disputes in rural areas from various perspectives, especially in the context of China's comprehensive construction of socialist law system, where legal culture is increasingly influencing how to resolve conflicts and disputes in rural areas.

2. The Legal Culture in Socialist New Countryside and Its Impact

The problem of social disputes has been existing for a long time, and the research of rural social disputes should always start from the basic part of countryside development, and explore the characteristics of various problems step by step, and comprehensively understand all aspects of rural culture. On this basis, discovering the characteristics of each aspect and its unique influence on the development of rural culture facilitates the research of disputes under the influence of rural legal culture in a more thorough manner, which will promote further research into disputes and their resolution mechanisms under the influence of rural legal culture.

2.1. Concept and Characteristics of The Legal Culture in Socialist New Countryside

Rural culture plays a role of cornerstone in the development of Chinese culture. It is also known as vernacular culture. As the origin of ancient Chinese society, rural culture has developed its

unique characteristics and relevance during the thousands of years of feudal society. Chinese vernacular culture, having a long history, is rooted and nurtured in the vast rural areas. At the same time, vernacular culture is the spiritual support and achievement from the wisdom of Chinese people. The vernacular culture enabled the Chinese nation to reproduce and develop, which is the singular feature that distinguishes Chinese culture from any other civilizations. The vernacular culture is highly representative and generalized with great importance. As a result, taking vernacular culture as the prerequisite of studying the resolution mechanism of social disputes under the influence of new rural culture will greatly facilitate this proposition. From a sociological point of view, culture is divided into rural culture and civic culture. Culture, in a broad sense, refers to the synthesis of material and spiritual wealth created by human beings in the course of social and historical development. It refers especially to social ideology. In a class society, culture is a weapon in the class struggle. A certain culture (as a conceptual form of culture) is a reflection of the politics and economy of a certain society, and in turn gives great influence to the politics and economy of a certain society. Culture in a narrow sense refers to the spiritual wealth created by ideology, including religion, beliefs, customs, moral sentiments, academic thought, literature and art, science and technology, various institutions, etc.

It has been a short history since the emergence of concept of legal culture, while it has been around for a long time in concrete judicial practice. The policy of fooling the people was widely adopted by feudal rulers in ancient China as an important measure to consolidate their governing. The development of law in rural society was not different from it in towns and cities. The main reason for villagers and citizens to participate in law practices was to resolve disputes that could not be solved by social relations and moral systems, and the resolution of criminal issues was mainly generated and developed within the state authorities and was rarely considered in the context of civil disputes. In this context, the development of legal culture has been a very perverse process. In the modern times, the Western democratic ideas have been deeply accepted by Chinese. Starting from the Western learning spreading to the East, experiencing the painful struggle against colonialism and invasion, Chinese modern democrats had been continuing to introduce Western democratic and scientific thoughts into China, and legal culture began to take on new content and forms in China on their fighting for survival and salvation. However, due to historical reasons and other factors, the formation and development of modern legal culture in China has not been smooth. On the one hand, socio-economic and historical conditions has limited its development, on the other hand, the rich and long content and profound of traditional Chinese culture has been exerting its influence. The combined effect of these factors has kept the evolution of legal culture in China at a standstill for a long time.

China's long-established vernacular culture has provided rich historical resources for the formation and development of new rural legal culture. The rapid development of social economy has provided material guarantee for the formation of new rural legal culture. The rapid development of China's democratic political construction and judicial system reform has provided strong impetus for the development of new rural legal culture. To sum up, the new rural legal culture has the following distinctive features: Firstly, it is local. The formation and development of the new rural legal culture comes from the demand of social development in China, based on Chinese conditions. Secondly, universality. The new rural legal culture has the general characteristics of culture. It is the integration of rural legal construction in the social construction of rural areas. It is also the process in which the universal democracy and the legal system content were disseminated into the rural social life as culture. Thirdly, the linkage. The new rural legal culture is not a fixed pattern, which reflects its flexibility and diversity. The vast number of rural areas in China have different characteristics, requiring that the new rural legal culture must have good adaptability, in order to form the expansion of the entire rural society. The actual situation of different areas, timely adjustment of specific forms, connection with the reality should be considered as a guide to the new rural legal culture to disseminate.

2.2. The Impact of The Rural Legal Culture in New Socialist Countryside

As the formation of legal culture is a long-term and gradual process, it varies in forms and connotations from one period to another. However, the formation and development of a legal culture are reflected in the historical role and practical impact of its objectives, regardless of its stage. Although the formation of a legal culture in the new countryside cannot succeed overnight, the direction and objectives it adheres to should be consistent in terms of its impact and desired goals at different times and stages.

3. The Current Situation of Multiple Disputes in China's Rural Areas and Their Resolution

The resolution of social disputes is one of the important factors in the formation of legal culture, and the significance of law at the practical level is roughly marked by this. Referring to the general rules of social development, the emergence of social conflicts is accompanied by the social development. Thus, the emergence of legal culture is not the result of the subjective and positive responses to disputes from law, while it is out of a corresponding demand for disputes. As disputes in different social regions have different characteristics and social disputes themselves arise for a variety of reasons, it is very positive to learn the current situation of rural dispute problems in different social regions and the current ways of solving them, which is helpful to correctly understand and grasp the shape and specific process of multiple disputes.

3.1. Diverse Types of Disputes in China's Rural Areas

Rural social disputes are an important aspect of current social disputes in China. In rural areas, there have long been some types of disputes, either large or small. These are inherent to the essential characteristics of rural society, such as neighborhood disputes, family disputes and so on. However, current rural areas present some new features of social development that have increased the possibilities for disputes in rural society. The overall characteristics of disputes in rural areas today show a trend of multiplicity for the following reasons. Firstly, the original inherent types of disputes in rural areas still exist. Secondly, China is currently in a period of accelerated urbanization and industrialization, and various social conflicts are generally acute, which affected rural areas. These are some of the new characteristics of social disputes in rural areas. What's more, the current social contradictions in rural areas synthesized a mixture of various social factors, giving new forms and complex situations to the creation and resolution of contradictions. For example, traditional disputes appear by means of law and moral adjustment while citizens' awareness of the legal system is enhanced, making the law face many awkward situations in solving similar problems.

3.2. Current Dispute Resolution Methods in Rural Areas and Their Drawbacks

As mentioned above, the phenomenon of multiple disputes in rural areas does exist, and the ways of resolving them are not perfect but by no means absent. Due to the existence of multiple disputes in rural areas, the traditional rural social culture, moral system and the settlement institutions prescribed by the state have long played some roles in resolving multiple disputes and undertaken the majority of rural dispute resolution tasks. Although all of these approaches have their flaws and drawbacks to some extent, it is still important to summarize and generalize them as ways that have already existed and been used. These approaches and methods are mainly the following.

3.2.1. Traditional Social Moral Adjustment and Resolution

Traditional social morality is universal for the resolution of social conflicts and disputes. The binding effect of morality comes from the credibility and sanctity that has developed over a long period of socio-historical development. In the case of rural areas, although the literacy level is

relatively low, traditional Chinese culture is relatively well preserved and traditional in rural areas. The long-established moral codes, commonly accepted and observed by the villagers, are generally hard to be destroyed, which is the best expression of the long-lasting and spontaneous nature of moral binding. At the same time, traditional morality is more widely adapted geographically, and some moral codes must be observed and accepted everywhere. Generally speaking, the party who is in the wrong will automatically drop the argument or renounce misconduct in action, and no arguments will involve verification of evidence or other formal content.

3.2.2. Coordination and Resolution Within the Village Rules and Family System

The village rules have a special character in the resolving multiple disputes in rural areas. Unlike traditional moral constraints, the mediation of vernacular rules is based on the characteristics of mutual living within a certain area or a certain social group. In the course of a long period of mutual living, village rules emerge and develop according to the particularities of the region and social group. Commonly speaking, in the absence of a sound legal system or law enforcement, village rules play a role in coordinating social relations. The regulation village rules lies in the fact that members of a community generally agree on the norms and adhere to them strictly. Thus, those who violate these conventions or regulations are not only morally condemned, but also are likely to suffer adverse consequences spiritually, socially and even materially. The use of village rules to mediate multiple disputes has therefore long been recognized and respected, and its irreplaceable role in solving problems and disputes has been a reason for its existence despite the availability of better legal norms.

However, these two methods of resolution are not perfect. In many places, the village rules were originated from the backward village culture rather than in a progressive social consciousness. Many of them are contrary to the law and do not play a positive role in safeguarding the basic rights of citizens and promoting democratic politics. They are becoming less binding as citizens' legal awareness progresses. The phenomenon that relying on village culture and internal family systems to resolve disputes has also revealed many problems. Based on traditional moral standards and outdated evaluation systems, many family elders coordinate disputes, which are not conducive to fairness and justice. Even if they are applied in some places, they do not solve the problem of multiple disputes in rural areas as a whole on a large scale, and the resolution of these problems is indeed too difficult for them and their effectiveness is debatable.

3.2.3. Villagers' Committees and Residence Cadres' Intervention in Solving Problems.

At present, villagers' committees are vastly established in all regions of China, which takes villagers' autonomy as an important step in the reform of the democratic judicial system. Administrative villages are vastly established in various towns, with grassroots party branches, villagers' committees and residence cadres set up in administrative villages to guide the resolution of day-to-day affairs and settle neighborhood disputes.

The inclusion of village committees and resident cadres (civil servants dispatched by local government) in the rural multi-dispute resolution mechanism is not wishful thinking on the part of the author. It is common in history for village committee cadres to resolve multi-disputes. In ancient China, there is a tradition of emphasizing the concept of officialdom. The credibility of a village chief still exists, and when faced with rural disputes, he can play a role in mediating in a timely manner to prevent them from escalating. In reality, village committees do play such a role, as conflicts in rural areas are more sudden and concentrated, which makes it easier for village committees to resolve specific disputes. The villagers' committees do not have the executive power of public authorities nor the prestige of respected village elders, so they are mainly responsible for co-ordination. The aim of co-ordination is to persuade the parties in the dispute to make peace, so that the conflict does not escalate and cause more bad consequences.

However, villagers' committees and residence cadres face many problems and constraints in resolving multiple disputes in rural areas. Firstly, the scope of problem-solving is limited, confined to resolving smaller disputes and problems within a village. Secondly, the resolution by village committees and residence cadres lack the necessary reputation and recognition. They only resolve problems within their areas based on the prestige of village committees and residence cadres themselves, making it difficult to form a comprehensive and systematic dispute resolution mechanism. In addition, in most areas of China, the appointment and dismissal of village committee members are still decided by higher levels of government. Although in some places the appointments are more in line with villagers' public opinion, most appointments do not really take into account the public opinion of the peasants, making the influence of village committees among the public much lower.

3.2.4. Resolution Through The Public Security and Judicial Channels

Generally speaking, the public security judicial channel is not used much in the resolution of rural multifaced disputes. It is only used when major personal and property issues and sudden mass incidents are involved. The public security judicial route is currently the last resort for resolving multifaceted social disputes in rural areas, with the public security judiciary maintaining the final say on dispute resolution with its coercive and enforcement powers. For example, in the case of injuries in rural areas, it has become more common to report the incident to the police. The intervention of the public security authorities allows all parties to calm down and think about what is right and wrong, thus avoiding the outbreak of a larger conflict and safeguarding the legitimate rights of the victim. Judicial settlement of disputes in rural areas has also been on the increase in recent years, which on the one hand shows that conflicts in rural societies are more concentrated during the transition period. On the other hand, it also shows that rural societies themselves are weak in resolving disputes, making it difficult to avoid conflicts in the beginning. The judicial approach gives both parties a fairer and more reasonable judgement, bringing a clearer outcome to a delayed dispute, and in most cases acting as a "stop of dispute".

Many villagers are reluctant to go through the judicial route when faced with difficulties in resolving disputes, partly due to the long litigation period and the cost involved in civil cases, and partly because of the traditional belief in many rural areas that going to court is a matter of shame, making many disputes not resolved in time. This will lead to serious conflicts.

4. Construction of A Multiple Dispute Resolution Mechanism in the Context of the Legal Culture in New Socialist Countryside

Resolving the multiple social disputes in rural areas is not something that can be achieved once and for all. The diversity and complexity of the legal culture in rural areas has led to the constraints and limitations for various dispute resolution methods. It has made us realize that we need to take a comprehensive approach to resolve multiple disputes in rural areas. We need to find a theme, a clear direction, and think about the construction of a multiple dispute resolution mechanism in a clear general direction. We are very pleased to see that the legal and cultural context of the new countryside will be the main battleground for the construction of a multi-dispute resolution mechanism. The advanced culture advocated by the new countryside, the advanced political and democratic construction and the active and open ecological economy create favorable conditions for the development of legal culture in the new countryside. The construction of a multiple dispute resolution mechanism will be more favorable under this legal cultural background. At present, as the countryside is in transition, the key to the construction of a dispute resolution mechanism is the legal system, while exploring the implementation of a benign operation of a multiple dispute resolution mechanism and the coordination of the various authorities in the dispute resolution process. Only in this way can we adapt to the needs

of social changes in rural areas, resolve various civil disputes and build a new socialist and harmonious countryside.

4.1. Improve Ideological Understanding, Change Mindset and Incorporate the Construction of A Multiple Rural Dispute Resolution Mechanism Into The Theme of Building Legal Culture in New Socialist Countryside

At present, there are many problems with the multiple dispute resolution mechanism in rural areas in China, and one of the main reasons for these problems is that there are problems in the way of thinking about resolving rural disputes. We must clearly understand that in the current social environment, with the premise of advocating a multiple dispute resolution mechanism, we should reasonably guide and improve the inherent dispute resolution mechanism, making full use of various social resources, take into account traditional ways and methods, and to establish a appropriate multiple dispute resolution mechanism as soon as possible. The establishment of a multiple dispute resolution mechanism is a dispute resolution mechanism that takes mediation as its axis, aiming to settle disputes and stop them. It is guaranteed by national laws and regulations, and is coordinated and complementary to each other, so as to deal with all kinds of disputes in a timely and efficient manner.

4.2. Improving the System for Handling Disputes at the Grassroots Level, While Institutionalizing and Normalizing Dispute Resolution

The current practice of the People's Procuratorate's Corruption Prevention Section has been widely established from the grassroots to the central level, which has inspired the author. Rural social disputes reflects the prevalence of social conflicts in rural areas. Some of which are difficult to foresee, while others are obvious and can be avoided after certain interventions. Therefore, I believe the fundamental cause of problems in current social disputes resolution mechanism is that there are certain loopholes and deficiencies in the timing and methods of dispute resolution. The vast rural areas are densely populated, while the economic development is relatively lagging behind, so the social conflicts are inevitable. On the premise of foreseeing the existence of conflicts and disputes, the timely establishment of dispute resolution mechanisms and prevention mechanisms will greatly reduce the huge conflicts brought about by disputes.

4.3. Exploring Active and Effective Ways of Official Non-Litigation Resolution, With the Goal of Maintaining Social Harmony and Stability and Fundamentally Resolving Disputes

For some particularly significant social disputes that are difficult to be resolved through general grassroots resolution channels, they can be resolved through government or corresponding institutions. The ultimate goal of such a solution should be to achieve reconciliation between the two parties in the dispute, and to achieve social harmony and stability as the basic requirement. The government's role as a "peacemaker" in this process will not damage the reputation of the government. In contrast, it will also enhance the credibility and appeal of the government among the public and help to promote the efficiency of the government, which can be said to kill two birds with one stone.

4.4. Improving Litigation Methods, Adopting Special Litigation Mode, Enhancing the Practicality and Relevance of Litigation

There is no doubt that not all rural disputes can be resolved through the various channels and mechanisms mentioned above, which is precisely the embodiment of the diversity of disputes in rural society. For social disputes that are necessary to be resolved through legal channels, farmers should be encouraged to use legal weapons to defend their rights and interests. Such issues need to be processed differently and seriously by the judicial authorities. The grassroots

courts can explore new ways of judicial settlement, improve litigation methods, shorten the litigation period and reduce litigation costs, etc, according to the actual situation. Even for some rural disputes, a faster and more effective form of treatment than procedures can be adopted, and a special litigation model for rural disputes can be established to address the common instances of disputes in rural areas in a targeted manner. The grassroots judicial system staff should also visit the rural areas and go to the villagers regularly to identify problems and solve them in a timely manner, so as to reduce the occurrence of disputes by demonstrating the spirit of the law and promoting general knowledge of the law to raise the villagers' legal awareness and consciously regulate their own behaviors. In this specific form, as a concrete measure to practice the construction of a new socialist countryside, it requires to create favorable conditions for the formation and development of a new rural legal culture, on the basis of which multiple rural disputes can be reasonably resolved and harmony and stability of rural society can be achieved.

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