

Research on Notarization Function from the Perspective of Family Law

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Abstract: The notarization system has been in China for decades, and has gradually formed a notarization system with Chinese characteristics in the process of continuous development and improvement. Notarization plays a vital role in the field of family law, especially for complex family law cases, and it often plays an important role in the final discretion of judges. Although the notarization system is of great significance to the trial and implementation of the family law, there are still many universal problems in the family law system in the field of notarization law in China, which need to be constantly optimized and improved. This paper studies the role of notary system in the view of family law. First, it demonstrates the importance of notary in family law and the function of family law. We should find the foothold of family legal service in the perspective of notarization, analyze the problems existing in the notarization system, and put forward effective suggestions to optimize the notarization system, hoping to provide effective reference for the improvement of China's civil litigation and family legal system.

1. Introduction

Family law is closely related to citizens' life. In the process of economic development, citizens' wealth level is increasing, and family cases are becoming increasingly specialized and complex. Notarization plays an increasingly important role in the trial of family law cases. Whether in property cases, testamentary inheritance cases, or marriage and family cases, they have played a vital role. The case has become increasingly complex, which also puts forward higher requirements for the level of notarization. In the context of the continuous development of family affairs, the notarization system in the field of family law must be discussed from a diversified perspective. It is not only necessary to demonstrate the importance of the notary system in value legal services, but also to deeply analyze the functions of the notary system in combination with the specific scenes and functions of family legal cases. While solving the problems of the existing notary system, we should let the notary system play a positive role in the hearing of family legal cases, constantly optimize and improve the functions of the notary system in the field of family law, so as to maximize the optimization of family legal services.

2. Characteristics of notarization system in the view of family law

2.1. On the coordination of notarization system from the perspective of family law

Notarization system is not only the embodiment of judicial justice, but also an important guarantee of procedural justice.[1] If there is no notary system, the judge lacks professional assistance in the trial of the case. For family law cases with increasing complexity, notarization system is more essential. Compared with the traditional trial of family law cases, family law cases in recent years have gradually shown the characteristics of complicated legal relations and diversified trial objects. Specifically, judges must not only proceed from the perspective of the facts and legal application of the case, but also go deep into the case itself. Only by having a deep understanding of the highly professional notarization field and notarization system can they ensure the substantive justice and procedural justice of family law cases.[2] At the same time, we should realize the judge's discretion. If the role of notarization cannot be effectively played, it will not only affect the outcome of the case, but also have a negative impact on the civil proceedings. Therefore, the improvement of the notary system plays a vital role in the trial of family cases and legal services.

2.2. The pluralism of notarial system in the view of family law

The diversification of family law notarization system is mainly reflected in the complexity of family legal relations and the diversification of trial objects. The complexity of family law cases continues to increase, and the legal relationship of family law cases also presents a complex trend. Family law cases include property cases, inheritance cases, marriage cases, etc. Compared with the relatively single legal relationship of traditional family law cases, the legal relationship of family law cases in recent years is more complex and involves more professional issues. This leads to a more diversified and pluralistic notarization in the field of family law. In the face of this feature of family cases, the functions and functions of the notarization system should also be diversified.[3] Notaries and judges of family law cases must adapt to the characteristics of notarization of family cases. While mastering professional notarization knowledge, the legal relationship of specific cases and the role of the notarization system are subdivided and analyzed to achieve the unity of substantive justice and procedural justice.

3. The function of notarization from the perspective of family law

3.1. The protection function of notarization for minors

The protection of minors' rights and interests is an important legal content of the family law, and also an important issue that has aroused public concern. For the protection of the rights and interests of minors in China, although the legal system has been constantly improved, there is still no refined cognitive system. Therefore, the legal rights and interests of minors are vulnerable to infringement in civil litigation. The disposal of minors' property rights, as well as the protection of their personality rights and personal rights, are key issues in the protection of minors' legitimate rights and interests. When disposing of the property rights and interests of minors, relevant notarial certificates shall be issued to the court. This, to a certain extent, protects the legitimate rights and interests of minors from the perspective of civil procedure. Through re-examination, the notary office notarized the contract signed by the minor and the disposition of the minor's property rights and interests by others, and protected the minor's property rights and interests in the trial procedure. It also has a certain social work efficiency, which is conducive to the demonstration of the protection of minors' personal rights and property rights[4].

3.2. The protection function of notarization to marriage

In recent years, the divorce rate in China has shown a rising trend, which brings about the endless emergence of divorce cases in the field of family law. Compared with traditional divorce cases, the property relationship of divorce cases in recent years is more complex. In the distribution of pre-marital property, property during marriage and property after marriage, more specialized property division is required. Therefore, notarization, as a part of the civil litigation defense system, is more and more widely used in family law, especially in marriage law cases. Notarization system in marriage cases can not only enhance the credibility of legal procedures, but also use legal means to adjust the economic relationship in marriage, so as to safeguard the legitimate rights and interests of both spouses in marriage. Compared with the mediation of marriage, a clear marital property relationship is a necessary means to maintain the stability of marriage. When the ownership of marital property is very clear, it is not easy to have disputes on property, which is conducive to the guarantee of stable marital order.

3.3. The protection function of notarization to inheritance

In the field of family law cases, the protection of the legitimacy of heritage is one of the most important parts. China has entered the aging stage, and the cases of inheritance disputes are increasing day by day. Notarization is one of the most effective means for the protection of heritage and will, and it is also the basis for realizing substantive justice. Whether the existing notary system can be optimized into a more effective notary system and used legally and reasonably in related cases is the basis for a fair trial of family law cases. In inheritance cases, the notarization of inheritance and will is the main content of family law notarization. Compared with the notarization of other types of cases, the notarization of inheritance cases not only needs to consider the authenticity and integrity of evidence, but also needs to coordinate the property relationship between family members to provide a legal and effective trial basis for the trial of related cases. Therefore, the notarization system needs to be more refined and humanized, taking into account the characteristics of family disputes, so as to protect the inheritance order and property rights.

4. Problems of notarization system in the view of family law

4.1. Lack of relevant legal basis for notarization system in the field of family law

In China's existing family law procedural law system, the relevant provisions of the family law notary system are mainly applicable to general cases. Although the relevant legal provisions of the family law clearly stipulate the relevant rules of the notary system of the Family Law. However, in the general provisions of civil litigation and civil law, there is a lack of clear and necessary regulations on the professional rules in the branch field of family law notarization system. The existing civil law rules and procedures define the relevant subjects of family law case notarization, the content and scope of family law notarization, and the responsibilities that the subject of family law notarization needs to bear. However, there are no corresponding specific provisions in the general legal norms on the issues related to the particularity of the family law notarization system. This has resulted in the family law notarization system and limited cases. In the judicial trial and implementation, the judicial trial has a large discretion space. The basis of legal norms is too scattered, which also leads to the unclear operation process of family law related cases.

4.2. The supervision and regulation of family law notarization system need to be improved urgently

Although the legal regulation on the activities related to the notarization of general family law in China has been relatively perfect, there is no corresponding provision in the hearing of family law cases. This leads to the lack of supervision over the implementation of notarization procedures in family law cases. The notarization of evidence related to family law cases lacks clear boundaries and corresponding responsibilities. The general subject of notarization is difficult to grasp the principle of legality and rationality when notarizing, and even the problem that the judge transfers part of his discretion to the notary organ arises. The emergence of these problems is directly related to the lack of provisions on the exercise of relevant rights of notarial institutions in the existing legal norms of China.

5. An effective way to optimize notarization system in family law

5.1. Improving the relevant normative system of the family law notarization system

The family law notarization system and related cases involving the social family law notarization system are characterized by strong professionalism and complex project composition. Compared with ordinary cases, these family law notarization cases need more professional guidance. China's family law notary system of the relevant legal system norms, for the family law notary system regulation there are many places missing. Therefore, we need to make up for the relevant gaps in the family law notarization system through the judicial interpretation and the revision and promulgation of the guidance. At the legislative level, we should regulate the notarization system of family law and its substantive content, and improve the relevant issues of the notarization system of family law in the trial procedure, so that the cases of the notarization system of family law with greater particularity can be heard on the basis of evidence.

5.2. Optimizing the supervision procedure of notarization system in family law

The realization of procedural justice in family law notarization system cases cannot directly lead to the final realization of the justice in family law notarization system, but the notarization system of family law and the restricted procedural justice are the basic guarantees of substantive justice in cases. In the notarization system of family law, procedural justice cannot be lost. The supervision of ordinary citizens on the notarization system of family law should be realized through procedural restriction and supervision. As far as the procedure supervision of the family law notarization system is concerned, the introduction of the basic principles of the family law notarization system and the formulation of the judicial interpretation of the family law notarization system and restrictions at the level of civil litigation are the only way to optimize and improve the supervision procedure of the family law notarization system.

5.3. Paying attention to the professional training of family law notaries

The trial of cases related to the family law notarization system is ultimately completed by the judge. Only scientific and perfect legal basis and relevant supervision procedures cannot guarantee the fairness and accuracy of the family law notarization system. Therefore, improving the comprehensive quality of judges and notaries of family law is the basis for optimizing the notarization system of family law. Family law notaries should not only have the relevant judicial capacity of family law notarization system, but also be familiar with the characteristics and legal norms of family cases, so

as to achieve the integration and unification of professional capacity and specific cases, and ultimately ensure the accuracy and fairness of judicial trials. At the same time, when performing relevant functions, notaries of family law also need to be supervised by entities and procedures from time to time to avoid the transfer of judges' trial power and ensure the legitimacy of entities and procedures.

6. Conclusion

Notarization system is an important way to reflect the social credibility, and also an important area in the implementation of the socialist rule of law with Chinese characteristics. As the legal awareness continues to be deeply rooted in the hearts of the people, the legal awareness of Chinese citizens in the field of family law continues to increase. Facing the gradually optimized legal environment, as well as increasingly complex family legal services and related cases, it is urgent to optimize and improve the notarization system to improve the level of family legal services. This paper probes into the importance of the notarization system in the field of family law, analyzes the functions of the notarization system in the field of family law from a diversified perspective, and then explores the problems of the notarization system in the field of family law, and finally proposes an effective path to optimize the notarization system in the field of family law, hoping to provide reference for the continuous improvement of the quality of domestic legal services in China.

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