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RESEARCH ON THE DISPUTE RESOLUTION MECHANISM OF THE HUI COMMUNITY IN NORTHWEST CHINA

The dispute resolution mechanism of the Muslim community in Northwest China, which is dominated by religious mediation, is greatly influenced by Islamic law. The author takes two disputes in Muslim community as examples to explore the characteristics and influencing factors of the dispute resolution mechanism under the background of Hui Chinese ethnic minority culture. The study of the relationship between the informal path of religious mediation and the formal path of official dispute resolution mechanism brings us a new perspective to understand the religious dispute resolution mechanism of the Hui Muslim communities in Northwest China.

In addition, what are the problems existing in the dispute settlement mechanism of the northwest Hui community? Why? This series of challenges and tests also belong to the research scope of this paper.

Key words: Dispute Resolution; Mediation; Hui; Islamic Law; Northwest China.

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Қытайдың солтүстік-батысындағы мұсылман қауымдастығының дауларды шешу механизмі туралы зерттеулер

Қытайдың солтүстік-батысындағы хуэй қауымдастықтарының діни медиацияға негізделген дауларды шешу механизміне ислам заңдары қатты әсер етті.

Автор Солтүстік-Батыс Қытайдағы хуэй қауымдастықтарындағы екі дауды мысал ретінде арнайы мәдени негізде дауларды шешудің сипаттамалары мен әсер ететін факторларын талқылау үшін алады. Ресми емес медиация мен ресми дауларды шешу тетіктері арасындағы байланысты зерттеу бізге Солтүстік-Батыс Қытайдағы хуэй қауымдастықтарының азаматтық дауларды шешу механизміне жаңа көзқарас қалыптастырды, сонымен қатар бұл азаматтық дауларды шешу механизмін түсінудің маңызды әдісі саналады.

Сондай-ақ Солтүстік-Батыс Қытайдағы хуэй қауымдастықтарының дауларын шешу механизмінде қандай проблемалар, себептер бар және оның алдында тұрған бірқатар сынақтар да осы тезистің шеңберінде.

Түйін сөздер: дауларды шешу, медиация, хуэй этникалық тобы, ислам құқығы, Солтүстік-Батыс Қытай.

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Исследование механизма разрешения споров в мусульманском сообществе Северо-Западного Китая

Механизм разрешения споров в общинах хуэй на северо-западе Китая, основанный на религиозном посредничестве, находится под сильным влиянием исламского права.

Автор берет два спора в общинах хуэй на северо-западе Китая в качестве примеров, чтобы обсудить характеристики и факторы, влияющие на разрешение споров в условиях особой культурной среды. Изучение взаимосвязи между неформальным посредничеством и официальными механизмами разрешения споров открыло нам новый взгляд на механизм разрешения гражданских споров в общинах хуэй на северо-западе Китая, а также это важный способ понять механизм разрешения гражданских споров.

Кроме того, вопросы о том, каковы проблемы в механизме разрешения споров в сообществах хуэй на северо-западе Китая, каковы причины, а также ряд проблем и испытаний, с которыми он сталкивается, также входят в объем данной диссертации.

Ключевые слова: разрешение споров, медиация, этническая группа хуэй, исламское право, Северо-Западный Китай.

Introduction

«The road of rule of law in China must pay attention to the use of China's local resources, pay attention to the traditions and realities of China's legal culture (Suli2015)» China is a unified multi-ethnic country, different ethnic groups have formed their own unique national culture in the long history. These ethnic cultures contain rich legal norms, which have had different destinies in the course of history, with some of which gradually withdraw from the stage, and some of which continuing to the present. The Hui, one of the ethnic minorities in China. It believes in Islam, and its social culture has been influenced by both Islamic culture and Chinese Han culture. In daily life, as citizens, the people in the Hui Muslim community are subject to Chinese laws and regulations. As parishioners, they are also deeply influenced by Islamic law. How does the Muslim community deal with the relationship between ethnic religious beliefs and national laws? How does Islamic law affect dispute resolution in Muslim community? These questions constitute a unique legal subject to study the resolution of disputes in Hui community. When we explore the Hui culture from the perspective of law, we can examine the actual operation of religious law in the Hui community. In turn, this influence, as a reference, also reflects the real situation of the operation of state order in the Hui community. The ultimate purpose of this study is to help us understand the diversified legal environment in Chinese society in an inclusive and rational way, and to think about the relationship between national law and the special legal culture of ethnic minorities.

The daily dispute settlement mechanism of the Hui community in northwest China is rooted in the soil of the Hui – Islamic culture, so it shows the characteristics of its ethnic and religion. However, the civil dispute resolution mechanism of the Hui community is a part of the multicultural culture of China's multi-ethnic country, and it is a local social tradition operating at the level of dispute-solving. This article will start from the study of two cases, try to explore the Hui community's unique dispute settlement mechanism prospect. The feature of this

dispute resolution mechanism is the presentation of its style, which is the basic element to define the «identity» of the Hui nationality. The author will try to accurately describe its content from the perspectives of mediation type, procedure, subject and content. This paper will also explore the subtle and complex real relationship between the two mechanisms in the level of social dispute resolution through a comparative study with the official way of formal dispute resolution. In addition, one of the goals of this paper is to think about the shortcomings of the mechanism. The author will reflect on and summarize the problems and limitations of the dispute resolution mechanism. This study is based on the materials and cases of the Hui communities in Northwest China.

I. The Cultural Dimension of Civil Dispute Resolution Mechanisms – A Case-Based Examination

Case 1: A woman and B man got married in accordance with Islamic law, without obtaining an official marriage certificate. Later, their relationship broke down and B man said «I divorce you» three times after the quarrel. A woman believed that according to the Shariah law, a divorce is valid if the man says it three times. A woman later married C man, and had marriage registered by the government. Later B man heard A woman had remarried, he came and harassed her, saying that remarriage of A woman was not in accordance with religious law and that the divorce was not recognized as valid. A woman couldn't bear B man's harassment, asked a local religious personage to mediate. The religious man explained the issue of divorce from the perspective of religious law, advocating that divorce was valid, but advised A woman to make appropriate financial compensation to B man in order to completely resolve the dispute. A woman and B man finally accepted the religious mediation, and A woman paid B man 30,000 yuan in financial compensation.

Case Analysis: In Muslim community in northwest China, marriage relationship must first meet the legal conditions stipulated in the Marriage Law

of the People's Republic of China, such as physical health and age. Then, the couple must register their marriage at the Civil Affairs Bureau in China, and after they get official marriage certificate, the marriage will be recognized and protected under state law. In addition, both parties are required to conduct and certify the marriage by an imam in accordance with the customary law of the Hui people, namely Islamic law, and finally the marriage is recognized by religious law. Due to the inadequate development of economy and education, the people in Hui Muslim community sometimes pay more attention to the customary law than the state law because of their weak awareness of modern law. For example, A woman and B man just hold a religious wedding in accordance with ethnic customs, so that «marriage» lost the protection of state law. During marriage dispute, their marriage ended because B man said «divorce» three times. The direct conflict between the state law and the Shariah law is embodied in the proposition of B man that the nature of remarriage of A woman is «illegal». A woman and C man have registered their marriage in accordance with national legal procedures and have formed a legal husband and wife relationship. From the perspective of state law, the facts of the dispute are clear, the legal relationship is clear, and there is no point of contention. But the complexity of realistic environment and legal resources leads to the parties involved in the contradictions and conflicts between state law and Shariah law. This case implies that in the Hui communities, the state law is not the only authority for dispute resolution, and the customary law trusted by the people also holds a significant influence. A woman had no choice but to seek mediation from religious person, the imam first addressed the issue of the legality of the marriage from the perspective of Islamic law, then asked the woman to pay certain amount of financial compensation for the purpose of ending of the dispute. The religious figure played the role of interpreter of Islam law and ended the dispute finally.

Case 2: A man and B man are neighbors, but there was a dispute over the ownership of a farm road. B man has made several pilgrimages to Mecca for Hajj and is considered a devout Muslim. One day, B man was prevented by A man in the process of the construction of the farm road, the two sides had a physical confrontation. A man wanted the imam to mediate the matter, saying he was willing to accept any result. But this proposal was rejected by B man. After investigation, the imam found

that the road was indeed a public agricultural road. However, B man claimed that he had the homestead certificate issued by the government and refused to accept the imam's mediation. A man finally filed an administrative lawsuit, and the homestead certificate was ordered by the court to be revoked by the government according to law due to falsification of material and illegal procedure. B man used the homestead certificate to escort his occupation of the road, and even refused the mediation of the religious authority was condemned by public opinion.

Case analysis: In this case, the identities, attitudes, behaviors of the parties and the reaction of public opinion provide us with a perspective to understand the civil dispute resolution mechanism in Hui community. After the dispute occurred, A man wanted to request the religious authority to mediate, but was rejected by B man. B man, as a Muslim who has performed Hajj many times, but he refused the imam's mediation. This shows that the mediation of religious authority is not necessarily an effective means of dispute resolution even for believers. In fact, the reasons for refusing the mediation of religious authority are: first, the interests of the parties cannot be satisfied; second, there are alternative solutions; third, there is a lack of trust in the religious authority. B man knew that the homestead certificate enabled his claim to be recognized by state laws, and it was his knowledge of the validity of state laws that led him to refuse the mediation of religious authorities. This means that the influence of Islamic law and religious authority is limited. People's choice is not always guided by religious values, and B man's rejection of the mediation of religious authority was in fact a rational choice in line with its practical interest. The attitude and behavior of A man, the mirror image of B man, revealed the religiously meaningful orientation of the parties in their choices. These two different choices show that there is a mixed state of existence of state law and religious law, practical interests and religious morality in the Hui community. The attitude of «accepting any outcome» is based on A man's trust in religious authority and his affirmation of the religious mediation method. He believed that the product of such a procedure is always just. Even though the final result was not in the interests of A man, A man still chose to accept the result of mediation. A rejected the tendency to instrumentalize the mediation process by religious authority and incorporated the secular dispute-of-interest process into his own sacred (religious) experience.

II. Characteristics of civil dispute settlement mechanism in northwest Hui community

1. Mainly in civil and commercial affairs

Civil and commercial disputes are the most common type of disputes that this mechanism applies to. This is not only related to the nature of civil and commercial disputes, but also closely related to the «power hierarchy» between the civil dispute resolution mechanism and the official dispute resolution mechanism. Civil and commercial actions can maximize the respect for the principle of «autonomy of intent», is characterized by «the parties mutually independent and equal legal status, and in most cases the occurrence of civil legal relationship depends on the meaning of the parties» (Liang Huixing, 2015), this kind of «freedom of civil law» provides the application space for the civil, local, informal dispute resolution procedure. In addition, in China, Islamic law has no power to interfere in legal disputes involving administrative and criminal relations. The fundamental reason is that in administrative disputes or criminal disputes, there will be the inevitable direct intervention of official agencies. Sharia law has no legitimacy and no capacity or resources to deal with such disputes.

2. The dispute resolution procedure is based on mediation

Most of the people in the Hui community are willing to choose the mediation as the main way of dispute resolution, and the concept of «peace is the most precious» runs through the process of dispute settlement. The reasons behind this are as follows: First, the influence of the concept of «peace is the most precious». This concept of peace is the result of the joint action of Islamic culture and Chinese traditional culture. The concept of «peace» urges the parties involved in the dispute to solve the dispute in a moderate way, which provides an ideological basis for the application of mediation procedures. Second, the unique nature of civil mediation makes it more popular. Mediation is the application of relevant social norms with the intervention of a third party, «to promote understanding and compromise through understanding and reasoning of disputes (Jiang Wei 2015). «Therefore, mediation has a series of advantages, for example, mediation is more convenient, the voluntary principle of mediation makes it easier to be recognized and implemented, mediation can take into account the difficulties and feelings of both parties, mediation provides an opportunity to release the emotions of the parties, etc. Third, the society provides rich mediation resources, the presence of religious authorities such as imams and great reli-

gious tradition in the Muslim community all provide a guarantee for civil mediation. The mediation of religious and moral authority has also gained the trust of the society. Many people believe that it safeguards the legitimate interests of the parties and the procedure is fair and reliable. Fourthly, the unfamiliarity and distrust of the official institutions represented by the court also lead to the reliance on civil mediation. During the author's investigation, some people expressed negative attitudes towards the official dispute resolution mechanism, such as concerns about corruption, unfamiliarity with procedures, consideration of economic rationality, etc.

3. Islamic culture plays an important role

In the civil dispute resolution process of the Muslim community, the Islamic doctrine Shariah based on the Quran and the Hadith plays an important role. In many cases, the religious authorities, acting as mediators, have mostly cited the Koran and the Hadith. The concepts such as «Islam is peaceful» and «Muslims are brothers and sisters» in the doctrines provide the ideological basis for the settlement of disputes, while the specific provisions of the Shariah law provide the rules and guidelines for the final settlement of disputes. Islamic culture is an important source of norms and ideas for the civil dispute resolution mechanism of the Muslim community. The social culture of the Northwest Muslim community is deeply influenced by Islam, and the Shariah, as a social norm, is well developed, providing a detailed internal legal resource for religious personnel such as imams to resolve civil disputes. «Allah has decreed for you that you may not go astray. (4:176) « Islamic law is the sum total of the legal norms related to faith, morality, law, politics, economy and other elements of human society within the scope of Islam. In northwest Muslim communities, Islamic law still plays the role of «soft» social norm in the form of ethnic customary law and etiquette education.

4. Mediation shall be based on the conviction of the parties

Voluntariness is the «basis of legitimacy (Jiang Wei, 2015) «of mediation. As a way of dispute resolution, civil mediation always takes the voluntariness of the parties as the basic condition. Mediation by religious authorities also conforms to this principle. The parties have the right of control over the mediation procedure: the initiation, operation and implementation of the mediation procedure require the acceptance of the parties. However, as «social beings», the principle of voluntariness of the parties is also influenced by the cultural environment and social public opinion.

(1) If the interest demands of the parties are obviously contrary to Islamic law, the religious people will deny the legitimacy of the demands, such as disputes over usury, drugs, gambling debts, etc. Some of the normal claims protected by secular law may not be treated fairly. Commercial practices, such as the sale of alcohol and tobacco, are protected by State laws such as civil law, but under Islamic law they are considered to be religiously illegal. Islamic law prohibits alcohol and tobacco, making it difficult for religious authorities to mediate in such disputes. This will have a negative impact on the secular interests of the parties. In such cases, the parties will often choose the non-religious dispute resolution approach to avoid their interests being compromised because of religious ideas.

(2) A religiously respectful environment has an impact on the «voluntariness» of the parties concerned. If the parties' demands are obviously contrary to Islamic law, these «deviant» behaviors will be difficult to be recognized by religious morality, and their interests will be more difficult to be treated equally in the mediation. If the parties reject the religious mediation in an «arrogant» manner, they will be subjected to public pressure from the community. This is more obvious in the Hui community in the acquaintance society. The parties concerned are also affected by their self-identity cognition. As Muslims, the parties have a psychological process of self-discipline mediated by religious authorities, and sometimes they will accept the results that do not conform to their rational and secular interests. The reason for this phenomenon is that Islamic law has religious morality and secular legal behavior or interest appeal, which cannot be treated fairly in specific religious culture.

5. Community law promotion: The application of State law in the mediation process

Apart from taking the doctrines of Islam and Sharia law as the main content of dispute mediation, imams and other religious personages will also cite the provisions of State laws, which makes the civil mediation have the function of promotion the State law. Imams do not always play the sole role of interpreters of Islamic law. In addition to the interpretation of Islamic law, imams will also use the method of interest measurement, as well as the use of provisions of state law and other methods to demonstrate, to enhance the legitimacy and rationality of their views. In invoking the provision of State law as arguments, the imams have played the function of promotion of the State law. In particular, in China, imams' promotion work, which also implies the political reality and religion's state

in front of the state authority. Therefore, the citing of state law will also play a role of «political self-protection». In terms of effect, the imam's use of pluralistic mediation norms, including the provisions of state law, can better adapt to the complex social reality and facilitate dispute's resolution.

6. Mediation subjects are not limited to religious imams

Some studies have focused excessively on the imam's mediating role as a religious authority, implying that the imam seems to have a monopoly on dispute resolution power in the Muslim community. In fact, the imam's role is important but not the only mediator. Family elders, hajjis, or others of prestige can also partially replace the imam's functions. First of all, religious mediation is not the absolute way, and the representatives of religious authorities are also diverse. Although the imam's identity and work nature are closely related to the cause of Islamic culture and can be regarded as a typical representative of religious authority, other mediators should not be ignored. There are alternative religious authorities to the imam, such as tutors of Sufi sects, family elders of rural communities, Haji Muslims, etc. The other reason is the non-monopoly of interpretation of Sharia law. As the religious intellectual class, imams have the qualification to interpret the Shariah, but there is no monopoly of the religious class on Shariah interpretation. Islam does not have a medieval Catholic hierarchy. The Koran could be studied by ordinary believers, and the Shariah law can be understood and interpreted by those familiar with it (even by ordinary believers). Sometimes there are situations where the results of mediation by different religious authorities contradict each other, and the final outcome depends on the exercise of the final decision of the parties, according to the fundamental principle of voluntary mediation.

III. The relationship between civil mediation and official mediation

1. The coexistence of competition and cooperation

Compared with the formal, compulsory, political and legal official mediation, the dispute resolution mechanism of the Hui community, which is mainly based on the method of «mediation», belongs to the informal, non-compulsory and cultural dispute settlement path. The two types of dispute resolution have their own characteristics, but both aim to resolve disputes and stop the trouble. What is the relationship between them? There are many similarities and differences between the civil

mediation mainly based on religious mediation and the official mediation mainly based on court mediation in terms of mediation scope, mediation procedure, execution power and mediation purpose.

The two paths of dispute resolution inevitably face the situation of competition. The formal route relies on the machinery of the state for its authority, while the informal route relies on religion and custom for its vitality in the community. Both dispute resolution paths have instrumental properties. The competitive relationship is tense, but there is also the hope of cooperation in the competition. The complexity of the real world provides the possibility for the combination of different forms of relations. Parties are likely to turn to official mediation if they are unable to obtain their own satisfactory results from civil mediation. In addition, the invocation of State law in civil mediation means that both kinds of mediation can have a common source of legitimacy.

2. Differences in the scope of mediation

The scope of both mediations focuses on the civil and commercial cases. This is related to the nature of civil and commercial acts and the characteristics of the mediation procedure. Although there is overlap, the public is more willing to resort to the mediation of religious authority in marriage and family affairs.

Marriage and family relations are «personal and property relations arising from certain kinship status, and these relations are highly ethical in nature. Personal and property relations have always been an important part of religious law and moral practice (Xu Li.2012). The norms of marriage and family matters are rich in Islamic law and provide very detailed guidance for the family life of the Muslim community. «And Allah has taken your kind as your wives, and created for you children and grandchildren from them. (16:72) «The Qur'an and the Sunnah have many religious legal provisions and moral exhortations on marriage and family matters, which constitute the unique Islamic system of marriage and family matters. Its extensive contents, including the meaning of marriage, marriage conditions and procedures, rights and duties of spouses, divorce procedures, parent-child relations, and property distribution, constitute an important basis for mediating family relations in Muslim communities. The previous remarriage cases indirectly point out that Islamic law has profoundly influenced marital and family relations in the Muslim community, and that secular courts can rule on the legal survival or termination of marital relations, but can hardly resolve the entanglement of marital disputes in the divine dimension.

3. Choice of mediation methods: efficiency, trust and interest consideration

The Muslim community focuses on the fairness and efficiency of mediation, and trust in the constraints of religious teachings makes imams more able to mediate impartially. In contrast, many people express unfamiliarity with and distrust of official dispute resolution, fearing corruption and bribery. Although parties feel that religious mediation may be more impartial, when they are unable to resolve their disputes with that way, many will turn to official path.

The shift from emotional reliance on mediation by religious authority to official dispute resolution is a result of the parties' trust in the dominance of authoritative officialdom in the secular world. Mediation by religious authority seems to carry an aura of morality, but in the secular world, the legitimacy, coercion, and authority of the official is recognized and trusted by the people. If a claim will receive more support in official handling, many people will choose to seek official dispute resolution. At this point, the secular rational consideration of maximizing benefits overtakes the identification with religious sentiment, and the pursuit of realistic benefits becomes the first driver of dispute procedure choice.

Traditional civil disputes can be solved by civil mediation, but for complex disputes with large amounts of subject matter, such as financial lending, large contract disputes, and guarantee disputes, the parties basically resort to official dispute resolution to resolve them. Religious laws are inherited from tradition, and imams have limited dispute resolution qualities, so they are not competent in such disputes fields. For disputes involving greater economic interests, the limitations of civil dispute resolution, such as unprofessionalism, unpredictability, and weak procedural safeguards, make parties doubt its effectiveness. In contrast, the official dispute resolution method is not only lawful, but also has transparent, predictable and enforceable procedures, making it a natural choice for large economic disputes. This implies the important influence of the principle of economic reasonableness.

4. The rules of the mediation process

The initiation of mediation by religious authority usually involves two modes: First, the parties request a religious figure such as an imam to mediate the dispute. If both the imam and the other party agree to mediate, the mediation process begins to operate. Second, the imam, the haji and other «mediators» take the initiative to intervene in the dispute. This is different from the passive neutrality of the court,

and for disputes of serious nature or urgent matters, the possibility of active intervention by religious authorities is higher.

Imams and other community elites take the initiative to play the role of «mediator» because of social expectations – it is the duty of public leaders to maintain the stability of the community, and these expectations are transformed into self-moral spurs for imams. Early intervention in disputes has the effect of controlling and preventing disputes, and has brought more social recognition to community leaders such as imams. Conversely, official mediation is more prescriptive with explicit procedural rules. For example, the Chinese Civil Procedure Law stipulates the principles, procedures, and effectiveness of court mediation.

Court mediation is also based on the principle of voluntariness, but once a mediation agreement is reached, that mediation agreement becomes legally binding. This both encourages the parties to choose their procedures carefully and prevents wasting judicial resources. These are the mandatory and normative features of the official dispute resolution mechanism. In civil mediation, the parties enjoy full freedom at the legal level regarding the initiation and operation of the mediation process and the implementation of the mediation results, which can sometimes led to invalid mediation, inability to implement, etc. Religious authorities lack the coercive power to ensure the implementation of the results, and the punishment of malicious breakers comes only from public opinion and moral condemnation.

5. On the purpose of mediation

Dispute resolution is the essential purpose of both dispute resolutions. It is also the fundamental reason for the competitive and cooperative relationship between the two. Since the two approaches rely on different underlying laws, there are also differences in terms of the purpose of mediation. In addition to resolving disputes, the official dispute resolution approach also has the function of maintaining official authority, public order, and social governance. The purpose of mediation in the Muslim community's dispute resolution mechanism is related to the promotion of ethical spirit of Islamic culture in addition to resolving disputes.

The Hui, who practice Islam, are an ethnic minority with a typical Islamic culture-Chinese Han culture dichotomy background, and their civil mediation is therefore characterized by a dual cultural influence with Islamic culture as the focus and core. The Muslim community in Northwest China focuses on mediation and strives to practice the religious

values of «unity among Muslims,»«Islam for peace,» and «avoidance of obsession with material gain.» Mediation also upholds the ethics of Islam. The resolution of disputes is not only the end of strife, but also a reflection of the unity between faith and the secular life of the masses, and Islamic law resolves conflicts, achieves peace, and maintains social order, which is an important expression of the social nature of Islam.

IV. Problems and limitations

The civil dispute resolution mechanism in the Muslim community has a strong vitality to cope with daily dispute situations and plays an important role in the dispute resolution and social stability of the Muslim community. However, as an informal dispute resolution mechanism that is deeply influenced by Islamic law, it also obviously faces limitations and shortcomings.

1. Inadequate protection of the legal rights and interests of the parties

Protecting the legitimate rights and interests of the parties is the purpose of official dispute resolution, for example, Article 2 of the Chinese Civil Procedure Law clearly states that protecting the legitimate rights and interests of the parties is the purpose of the civil procedure system. But religious authority mediation cannot fairly protect secular legitimate rights and interests. For example, normal civil transactions such as tobacco and alcohol cannot be protected by the mechanism of religious authority mediation. The issue of civil lending is also typical, as interest is prohibited by Islamic law. Religious legitimacy is a condition for the operation of the mechanism, and secular disputes that do not have religious legitimacy are difficult to apply to this dispute resolution mechanism.

Certain acts that are restricted by State laws are accepted by Islamic law. A typical example is the issue of monogamy. China has a monogamous system, and polygamy is illegal and even punishable by the Criminal Law for bigamy. However, Islamic law takes a tolerant approach to the issue of polygamy, encouraging monogamy while tolerating the situation of second wives for husband under the principle of fairness. Religious figures such as imams, who are responsible for interpreting the Shariah, can give judgments and answers at the level of Islamic law when faced with the polygamy. Some acts that are not clearly ethical, such as economic activities, are prohibited or restricted by the state for policy reasons, but are legal in Islamic law, and it is possible to apply that remedy.

The root cause of the problem of «relativity» of legal rights and interests is the objective difference in norms between the two normative orders, the state law and the religious law. This complicates the relationship between this civil dispute resolution mechanism and the official dispute resolution mechanism. In this case, the civil norms dilute the official authority. How to resolve this contradiction is important for the long-term development of the dispute resolution mechanism in the Muslim community, and this requires more wisdom.

2. One-way relief process

The dispute resolution mechanism of Hui community is based on Muslim belief in and identification with religious culture, but the lack of this common cognitive base between Hui and Han people leads to an obvious shortcoming of this dispute resolution mechanism: its inability to be applied in Hui-Han disputes. Objective religious and ethnic identity differences make the Han Chinese masses lack sufficient knowledge of religious mediation and other approaches to build trust, so that dispute resolution between the Hui and Han often adopts the official path model, which has a formal, de-ethnicized religious character. In this sense, the dispute resolution mechanism of the Hui community is a victim of its own ethno-religious attributes as far as the scope of application of the mechanism is concerned.

3. Other aspects

The dispute resolution mechanism in the Muslim community is in a single form. The form of dispute resolution is basically based on mediation and lacks other forms of resolution. Mediation is also dominated by the mediation of religious figures represented by imams. The single form leads to limited procedural options for the parties, and a single religious mediation cannot professionally, exclusively, and institutionally assume responsibility for dispute resolution, making it difficult to cope with the complex and changing reality of disputes.

The problem of the single form is epitomized by the allocation of social resources for dispute resolution. Religious authority mediation is only an incidental social function of the imam, and mediators do not have a fixed job of mediation, much less a specially established mediation institution. Mediation work is not directly related to economic interests, and in a humane society, mediation is often thankless work. The motivation for many religious people to participate in mediation is a sense of moral responsibility. Despite the availability of Islamic law resources, the dispute resolution mechanism in the

Muslim community still lacks professionalism and modernization, making it difficult to handle modern, complex dispute resolution with a pessimistic outlook.

This sense of «powerlessness» is especially evident in modern and new cases and cases with large amounts of money. Complex civil and commercial disputes, for example, are also difficult cases in the state courts. In new, complex, and difficult cases, official institutions have sufficient intellectual, economic, and political resources to resolve disputes, but civil mediation lacks the corresponding trainings and resources. In addition, if the amount of the dispute is large, the people basically choose the official solution. The dispute resolution mechanism of the Muslim community is unique and trusted by the public, but it is limited by its own development and is not capable of handling complex and new types of dispute.

Conclusion

The Islamic law-influenced Muslim community in the northwest has formed a dispute resolution mechanism based on mediation by religious authorities. The scope of its application is concentrated in the civil and commercial fields, dispute resolution is mainly based on mediation by religious authority, Islamic sharia is an important part of mediation, the initiation, operation and implementation of mediation procedures rely on the principle of voluntariness, the invocation of State law in the mediation process has a unique legal promotion effect, and the subjects of mediation are pluralistic and not limited to imams alone. As an unofficial, civil mediation method, in the unique cultural background and complex social reality of the Muslim community, there is a complex and delicate relationship of competition and cooperation between it and the official dispute resolution method. The similarities and differences between informal religious authority mediation and formal official mediation in terms of the scope of mediation, the procedure of mediation, the purpose of mediation, and the parties' right to choose, like a mirror, bring us a new perspective. Under the influence of both religious authority and state authority, the mechanism sometimes faces the problem of reconciling religious law and state law, and the dual recognition of state law and religious law becomes an important goal pursued by religious authorities from the general congregation to the imam in the dispute resolution mechanism. This dispute resolution mechanism also has a series of

limitations. The aura of religious and ethnical attributes gives the dispute resolution mechanism a unique vitality, but also leads to the following problems: in terms of the scope of protection of the rights and interests of the parties, due to the difference between the norms of Islamic law and State law, there is a different characterization of behavior, resulting in the problem of the relativity of «legitimate rights and interests». The contradictory reality between state law and Islamic law poses a challenge to the position and development of the mechanism, as some normal civil and commercial behaviors protected by state

law lose the possibility of protection due to the lack of religious legitimacy, while some behaviors restricted or even prohibited by state law can be remedied by the procedure. Second, the dispute resolution mechanism in the Muslim community is unable to effectively address the issue of disputes between Muslims and Han Chinese. The dispute resolution mechanism has a single format and is backward in its development, and in many ways, it cannot effectively adapt to the complex world of modern disputes. How to «arrange» the fate of this mechanism in the future seems to be an urgent issue.

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