

A Study of the State's Responsibility for Pensions

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Abstract: At present, China has entered into an aging society, and the social risk brought by the aging population has become a major problem facing the country and society. Along with the weakening of the traditional-type family elderly function, the expansion of the state's elderly responsibility has become an inevitable trend for the transformation of elderly responsibility. However, in the existing norms on old-age security, there are still problems of unbalanced distribution of responsibilities and blurred boundaries of government responsibilities. By analyzing the unreasonable aspects of the existing old-age security system, we summarize the proper contents of the state's old-age responsibility, reasonably coordinate the state's and individual's old-age responsibility by applying the "subsidiarity principle", and clarify the government's position in the old-age responsibility, so as to construct a perfect old-age security system.

Keywords: Population Aging; State Pension Responsibility; Pension Security System

According to the data released by the National Bureau of Statistics in 2019, since 2000, China's elderly-type age structure has taken initial shape and officially entered an aging society. Among them, the population aged 0-14 accounts for about 20% of the total population, and the proportion of the population aged 65 and above reached 7%. In 2018, the proportion of the population aged 0-14 in China dropped to 16%, while the proportion of the population aged 65 and above increased to 12%, and the aging of the population continued to deepen. From the data, it only took 18 years for the age structure of China's population to change from adult to elderly. The aging of the population will not only increase the pressure on social security and public services, but also continue to affect the social and economic vitality and innovation power, which is a major risk and challenge for the development of China into the new era.^[1]

1. Constitutional basis of the state's responsibility for the elderly

From the perspective of China's constitutional provisions, the state has a constitutional basis for assuming responsibility for the elderly. First of all, from the national goal level, it contains the content of the old people's care. The preamble of the Constitution stipulates that China will be built into a strong socialist modern state with wealth, democracy, civilization, harmony and beauty. If the problem of old age cannot be solved, family harmony cannot be realized, and there is no way to talk about the harmony of society and the country. Secondly, from the content regulated by the Constitution on social security, on the one hand, the state is responsible for establishing a sound social security system in line with social development; on the other hand, Article 44 of the Constitution stipulates that the state and society have the obligation to guarantee the post-retirement life of retirees, and, Article 45 stipulates that our citizens have the right to receive material assistance from society and the state in the event of incapacity, illness or old age. The right to assistance. At the same time, the relief and insurance required to guarantee these rights, as well as health care, are developed by the State.

2. Irrational aspects of the responsibility for old-age care

2.1 Imbalance in the distribution of responsibilities

According to the provisions of the Constitution and the Law on the Protection of Rights and Interests of the Elderly, the responsibility for old-age care in China is generally allocated to individuals, society and the state, among which the responsibility of individuals is the main one. However, with the expansion of the state's responsibility and the fact that children cannot stay with their parents to fulfill the obligation of support due to urbanization and movement of people, such a division of old-age responsibility has become unreasonable. The main reason for this is that individual responsibility for the elderly is no longer realistic in some areas. The "family-oriented" concept is a product of the dominance of natural economy in China for a long time, and under this traditional background, the responsibility of supporting the elderly has been borne by the family.^[2]

2.2 The development of private subjects is limited

With the expansion of state power, the main body of responsibility for old-age care has gradually shifted to the state and the government. Although China has been committed to improving the existing pension security system, the pension business is still in a relatively rigid situation. First of all, lagging is a common feature of every law that cannot be changed. The problem of aging population is increasing, the aging population is rapidly climbing, and the existing norms cannot adapt to the current rapid expansion of the demand for pensions. Secondly, conflicts between systems lead to difficulties in individual pensions. The problem of conflict

between different systems can directly affect the realization and development of personal pension.

3. The due content of the state's pension responsibility

3.1 The sharing of responsibility in the constitutional relationship

According to the above, the emphasis on individual responsibility for old age has gradually lost its realistic conditions, and the scope of the state and society's responsibility for old age should be gradually expanded. However, the shift of old-age responsibility from individual or family to society and the state does not mean the complete transfer of individual or family's old-age responsibility to the state and society, but only the expansion of the responsibility to the state and society, that is, on the basis of the original individual as well as family and society's responsibility, the subject of responsibility is expanded to the state.^[3]

3.2 Clarify the positioning of functions in the state's pension responsibility

First, at the administrative pension level, the state can take the lead in promoting the investment protection of pension funds. Secondly, the necessary pension services can be provided in a targeted manner. Focus on protecting the old age of the three noes, i.e., the old people who have no source of livelihood, no working ability, and no supporters or dependents. Provide low-fee or even no-fee senior care services for semi-disabled elderly people who have sources of living but have financial difficulties. Finally, lowering the market access threshold and introducing social capital into the senior care service field becomes particularly important when the ability of individual senior care responsibility is insufficient. However, social senior care services have certain public product attributes, especially the service targets belong to the disadvantaged groups, therefore, the service quality as well as the safety guarantee of senior care institutions should be paid attention to. Moreover, as a provider of social public goods, senior care institutions are not the same as companies and other purely commercial institutions, and their registration conditions and related reviews should be different from those of general commercial subjects, which should be specially regulated by market supervision and management departments.

3.3 Constructing a perfect old-age security system

At present, China does not have a specific legislation regulating the cause of old age, only in the Law on the Protection of the Rights and Interests of the Elderly and other documents mentioned by the state to establish a sound system of old age security. And there is a certain lag in the existing norms, and the configuration of the content can no longer meet the needs of today's social pension. Therefore, the content of old-age security should be clearly defined at the legislative level.

First of all, the state should legalize the old-age security system as soon as possible to address the problems in the old-age business. At the same time, the state can make special provisions for "old-age men" according to the relevant legislative authority and authorization, and share the responsibility of individuals and society for old-age care according to the "subsidiarity principle". For example, legislation should be adopted to set up a flexible retirement system, a delayed retirement system, a retirement system for farmers, etc. One of the important aspects is the construction and implementation of a market-based pension insurance system to achieve a good "cooperation" between individual and state pension responsibilities.

Secondly, at the implementation level, the allocation should be made according to the principle of scientific and legalization. Specifically, the state can, according to the relevant laws and regulations, integrate the needs of the society and form some new organizations to take up the affairs functions in the receipt and payment of pension expenses, policy promotion and pension services.

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