Optimizing the Progression of Financial Rights Protection for the Rural Elderly

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Abstract: *Safeguarding the financial rights of the rural elderly population is the right thing to do to consolidate the achievements of poverty eradication and adapt to the financial development of an aging society, and is also a concrete manifestation of Xi Jinping's thought on the rule of law. Under the unified promotion of rural finance and elderly finance, the disadvantaged position of the rural elderly population has become increasingly prominent due to the differences in resource endowment and the constraints of information asymmetry. The 'double-order violation' of the positive and negative dimensions further increases the institutional cost of redressing the rights of the rural elderly. Through social stratification theory and game theory, it is possible to identify the causes of the weakness of financial rights protection for the rural elderly and the need for appropriate government intervention. Based on overseas experience in rural financial development, we can promote the identification of the financial rights of the rural elderly, clarify the boundary between the government and financial institutions, innovate the supervision mode of rural financial institutions' business related to the elderly, and provide avenues of redress for the financial rights of the rural elderly as a way to optimize the protection of the financial rights of the rural elderly in China.*
Keywords: *elderly rural population; financial rights; legal security; information asymmetry*

Presentation of the problem

The promotion of rural finance has positive implications for achieving inclusive economic growth and gradually narrowing the gap between urban and rural development, and the satisfaction of the financial needs of the elderly population will appropriately respond to the needs of the financial development of an aging population. As a subject that is easily overlooked in the economic development process, the regulation of the financial rights of the elderly rural population is even less well-regulated, and a practical and theoretical perspective can reflect the manifestations of the existing problems.

Realistic demands: weakness of financial rights protection mechanisms for the rural elderly

Although China has achieved the goal of eradicating poverty across the board, the uneven level of economic development and the mismatch between the supply of financial rights are more prominent due to the institu-

tional barriers of the dualistic structure of urban and rural areas. 2021 Central Government Document No. 1 pointed out the need to promote the formation of a new type of industrial-agricultural-urban-rural relationship in which workers and farmers promote each other, urban and rural areas complement each other, develop in a coordinated manner and prosper together. 2021 In April, the "Law of the People's Republic of China on the Revitalisation of Rural Areas" also involves breaking down the inherent dualistic structure and promoting the equalization of financial resources as an urgent need to safeguard the financial rights of the aging rural population. The practical and normative paths can be used to clarify the realistic demands for the protection of the financial rights of the rural elderly.

At a practical level, the phenomenon of financial rights violations against the elderly in rural areas are more common. Financial crime in rural areas has been on the rise in recent years, with financial fraud accounting for up to 35% of the total amount involved, and the majority of victims are rural people, with the number of financial fraud cases in rural areas increasing at a much higher rate than in urban areas. Since the introduction of state-owned bank branch reform policies, many financial outlets have been withdrawn from rural areas, leading to a lack of financial supply in rural areas, and financial institutions represented by rural credit unions have since replaced the four major banks as the mainstay of financial support for agriculture. However, due to the lack of effective competition guidelines and service design, financial products show a strong homogeneity, and the situation of "formal support for agriculture" is gradually taking shape. In addition, inclusive Internet finance in nature, has failed to pay attention to the financial needs of the elderly rural population, resulting in partial inclusiveness in the name of group inclusiveness. In short, the withdrawal of traditional financial institutions from rural areas, the lack of relevance of existing financial products or services, and the "Digital Divide" inherent in internet finance have led to negative rights violations, which have led to the lack of financial rights protection for the rural elderly.

At a normative level, the rural elderly have a real need for financial rights. There are no legal norms or policy documents in China that clearly define the financial rights of the elderly population. "The root cause of peasant poverty is not peasant poverty itself, but another kind of poverty that lies deep behind peasant poverty - rights poverty ", the need for rights identification is closely related to the improvement of peasants' access to financial resources. Finance is a scarce element of economic growth, the effective allocation of financial resources can achieve high-quality economic development. The lack of financial rights is the reason for poverty in rural areas of China, especially among the elderly rural population. The right to credit, for example, "should be considered a human right, and credit can play a very strategic role in the global fight against hunger. " The guarantee of the right to credit is seen as a fundamental aspect of financial rights, and thus the social effectiveness of financial rights will be highlighted. The guarantee of financial rights for the rural elderly is also closely related to Xi Jinping's ideology of the rule of law, which emphasizes the rule of the state by the Constitution. According to Article 33 and Article 45 (1) of our Constitution, the state must respect and guarantee human rights, and the elderly have the right to receive material assistance from the state and society. It is also an institutional response to the constitutional rights of the elderly in rural areas.

Theoretical demands: a review of existing research on financial rights protection for the rural elderly

Existing research has focused more on the financial rights of farmers, while little literature has focused on the protection of the financial rights of the elderly rural population. In terms of the current state of research on farmers' financial rights, scholars have broadly conducted research in four areas. First, the analysis of the causes and necessity provides theoretical evidence for the protection of rights. From a jurisprudential basis, it is difficult to realize farmers' financial rights at present due to resource, operational and institutional factors. The lack of protection for farmers' rights is the root cause of their vulnerability. A clear definition of farmers' financial rights is not only an extension of their right to financial development but also a legal guarantee for the reform of the rural financial system. Second, the right to rural financial development is implemented by deepening the connotation of the subject and content of rights. Peasants' financial rights are a kind of human rights related to the survival and development of peasants, and the subject of their rights is individual peasants. The content of farmers' financial rights specifically includes the right to equal access to financial loans, the right to agricultural insurance, and the right to participate in financial cooperation. In the development of inclusive finance in rural areas, the government is on the supply side and should provide institutional support for the realization of farmers' right to financial development and ensure the implementation of their right to financial development. Third, the existing problems should be clarified through macro and micro perspectives. At the macro level, there is a lack of legislation, a deviation in basic values, and a lack of rural financial resources in China. At the micro level, the relevant legislation does not specify in detail the procedures, standards, or ways to protect the rights of rural financial inclusion targets, and the legislative system for financial inclusion has not shaped the legal remedy mechanism for farmers. Fourthly, the existing problems can be solved by proposing ways to protect rights. The scholars have analyzed the above dilemmas from qualitative or quantitative perspectives and put forward suggestions for improvement. For example, the legal protection of farmers' financial rights in China should be improved at the levels of legislative concept, legislative system, and legal implementation, and initiatives such as relaxing the threshold of access to financial services in rural areas and improving guarantees. Other commentators have conducted quantitative analysis on the efficiency of digital inclusive finance in 31 provinces in regulating the difference in welfare between urban and rural residents and put forward suggestions such as strengthening technological innovation, rational allocation of financial resources, and increasing government support, as well as making use of empirical surveys to propose ways of financial support. An empirical survey suggests that financial poverty alleviation efforts should start by raising the interest concerns of poor households, designing diversified and applicable products for different county characteristics and poverty levels, and protecting the financial rights of rural areas.

Although scholars have explored the issue of financial rights protection for rural residents from multiple dimensions, there is a lack of research on financial rights protection for the elderly in rural areas. As of May 2021, the author found only four articles after searching the China National Knowledge Infrastructure under the dual themes of "rural" and "old-age finance". The value of theoretical research and the seriousness of real life highlight the need to provide institutional protection for the elderly in rural areas, so it is particularly necessary to conduct research on the protection of the financial rights of the elderly in rural areas based on existing research results.

Reflections on the current situation of weak financial rights protection for the rural elderly population

As a disadvantaged group of farmers, the elderly rural population is characterized by a lack of financial literacy and a low degree of predictability of economic benefits and is therefore often more vulnerable to violations of their financial rights. With the positive and negative dimensions of the "double-order infringement", the real dilemma of the protection of the financial rights of the rural elderly is becoming more and more obvious.

Positive dimensional violations of the financial rights of the rural elderly

The frequency of financial fraud-type crime situations in rural areas

With the promotion of the Central Government's rural revitalization and precise poverty alleviation strategies, the per capita income of farmers has more than doubled to date compared to 2010. While the economic income of the aging rural population is increasing, the mismatch in financial literacy has led to an increasing frequency of financial fraud in rural areas. According to the 2015 CHFS data from Southwest University of Finance and Economics, 40.50% of farmers have suffered from financial frauds such as telecommunication fraud and internet fraud, of which 7.64% suffered financial losses. In addition, based on the annual changes in the number of persons prosecuted for crimes involving financial fraud published by the Procuratorate from 2015 to 2021, it was found that the number of persons committing financial fraud crimes has shown a significant increase in the last three years (see Figure 1). Thus, the current situation of financial fraud in rural areas is already quite serious, and the active violation of financial rights against the elderly rural population, who lack sufficient financial literacy, is also prominent.

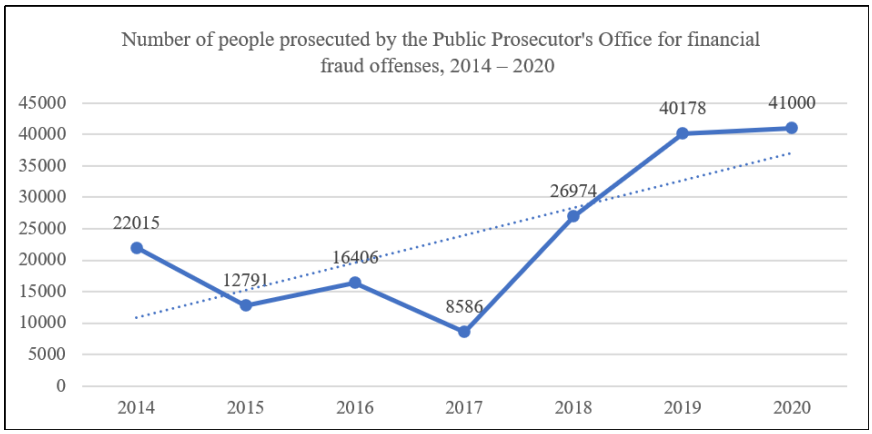


Figure 1: Changes in the number of people prosecuted by the Public Prosecutor's Office for financial fraud offenses, 2014 – 2020

The reasons for positive dimensional aggression in the form of financial fraud is twofold. Subjectively, there is a relative lack of financial knowledge among the rural elderly population, and secondly, it is difficult for the elderly to make sound decisions as rational economic agents based on the herd effect of blind profit-seeking. Objectively, the lack of regulatory oversight of financial activities in rural areas, coupled with the increasing sophistication of fraudulent forms, makes it more difficult for the rural elderly population to recognize financial fraud. As a result, the prevalence of financial fraud in rural areas has led to an increase in the number of

direct violations of the financial rights of older people, making it increasingly difficult to protect the financial rights of older people in rural areas.

Inadequate supply of traditional financial resources in rural areas

The institutional logic of rural economic development and the nature of rural financial resource endowments have led to a serious shortage of financial provisions required by the current rural elderly population. From the supply side, the lack of efficacy in securing the financial rights of the rural elderly population is closely related to the financial supply system in China. China's rural financial system was initially established and developed to facilitate the process of industrialization and urbanization and to meet the needs of government control, rather than being based on solving the basic problem of rural financial distress. Before the reform and opening up, the government channeled rural resources to the industrial sector through direct intervention, which led to a strategic context of prioritizing the development of heavy industry, resulting in a dichotomous financial structure in which the urban and rural financial systems were relatively independent. This urban-biased financial arrangement made the internal supply of rural capital inadequate as a norm. Since 1978, to adapt to the reform of the market economy system, the state has set up wholly state-owned specialized banks, mainly the four major state-owned banks, namely ICBC, ABC, BOC, and CCB, and has established a wide range of branches in rural areas. However, due to the Asian financial crisis and the reform of domestic financial institutions, in 1998 the Central Bank issued the "Notice on the Implementation of the Reform Programme of the Branches of Wholly State-Owned Commercial Banks", and the four state-owned banks began to withdraw their branches on a large scale, with rural areas being the focus of the withdrawal. All along, financial institutions in China's rural areas have mainly been rural credit cooperatives and postal savings banks, with prominent problems of market segmentation and monopoly. After the withdrawal of traditional commercial banks, the rural financial market was almost dominated by rural credit unions. In the absence of new financial institutions to participate in the competition and other external factors, the financial supply to serve rural areas lacks effective market resource allocation and regulatory system support. As a result, the current aging rural population, after having paid so much for the urban first strategy, is not only characterized by economic poverty as a product of history but also remains in a difficult position of inadequate traditional financial provision.

From the demand side, the lack of supply of rural financial resources can be caused either by moral hazard arising from the adverse selection or by a lack of effective demand as determined by supply and demand theory. On the one hand, due to the current imperfect credit system, the aging rural population may shrink the rural financial market based on adverse selection before choosing financial products or services, and increase the operating risks and costs of rural financial institutions based on moral risks after choosing. As an example, the average annual non-performing bad debt ratio of rural commercial banks from 2016 to 2020 is 2.61%, 2.87%, 3.94%, 3.98%, and 4.07% respectively, an increase of 55.94% between the beginning and end of the year. The increased risks and costs of operating rural financial institutions will increase the likelihood of a reduction in the supply of rural financial institutions. On the other hand, based on the logic of smallholder survival based on the notion of safety first, the elderly rural population will naturally reject lending to reduce natural risks and therefore have fewer financial demand-side propositions. In addition, the financial awareness of the rural elderly is limited, and some of them have only enough income for basic consumption and reproduction, so there is a lack of demand for productive capital. In summary, in terms of traditional financial

supply, in addition to the supply-side undersupply driven by external forces, the weak endowment of the demand-side itself is also an important reason for the undersupply.

Negative dimensional violations of the financial rights of the rural elderly

1. The profit-oriented niche of new rural financial institutions

New rural financial institutions include rural commercial banks, which are converted from rural credit cooperatives, and many new rural financial institutions established under policy guidance. In the case of rural commercial banks, they have been positioned as the "main force in supporting agriculture" and are supposed to play an important role in the process of promoting the modernization of agriculture and rural areas, but due to the real problems such as low management capacity and insufficient innovation in products or services, and the paradoxical dilemma between the policy obligation to support agriculture and the inherent requirement of commercial profitability, the CBRC in 2014 The CBRC has twice issued documents explicitly supporting the participation of private capital and other capital in the property rights reform of rural credit cooperatives on equal terms, and has given corresponding institutional support. Under the guidance of various policies, the current restructuring of rural credit unions has continued to advance, with the number of rural commercial banks reaching 1581 by the end of 2022 (see Figure 2). As a new mechanism to strengthen the concept of inclusive finance, the institutional arrangements and capacity building of rural commercial banks to support agriculture have been greatly enhanced. However, their development still faces the practical challenges of risk management capacity, market share share share and inefficient asset governance, and the endogenous commercial profit-seeking characteristics also raise the future question of whether rural commercial banks under the concept of inclusive are only quantitatively inclusive rather than substantively inclusive.

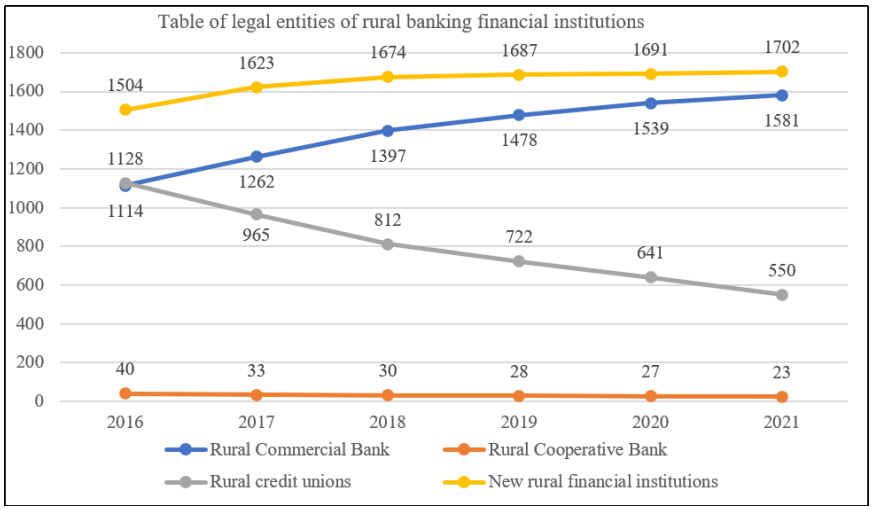


Figure 2: Table of legal entities of rural banking financial institutions

In terms of new rural financial institutions, at the end of 2006, the CBRC issued a document stating that it would support and guide all kinds of capital from within and outside the country to invest in rural areas, and solve the problems of low network coverage of banking financial institutions in rural areas, inadequate financial supply, and insufficient competition by establishing more new rural financial institutions. However, historically, the essential functions of new rural financial institutions have faced a severe reality test, with the

irrational growth in quantity not matching the quality of services and the effect of supporting agriculture, and a more serious tendency for new rural financial institutions to take away from agriculture and tend to make profits. The “bride price loan” by Jiujiang Bank and the “cemetery loan” by Xi Shan Bei yin Village Bank in Yunnan, for example, is the external manifestation of the excessive profit-making tendency of new rural financial institutions, and once the profit-making tendency of financial institutions intensifies Once the tendency of financial institutions to make profits intensifies, it will inevitably lead to a shift in financial services away from the elderly rural population and will cause challenges and impacts on the rural financial order. In other words, the quantitative orientation of financial products has revealed the homogeneity of existing financial services and the excessive profit-seeking of new rural financial institutions, so that the protection of the financial rights of the rural elderly will be a strong response to the realities of the conditions.

2. The practical constraints of the “Digital Divide” in Internet finance

The “Digital Divide “ refers to the difference in access to and ability to use digital products among people of different genders, ages, races, economies, living environments, and class backgrounds in society. According to data released by the China Internet Information Center, as of December 2020, the size of non-Internet users in China was 416 million, of which 62.7% were non-Internet users in rural areas and 46.0% were elderly people aged 60 and above. Limited by the constraints of literacy and infrastructure, the elderly rural population has a weaker ability to accept electronic technology products and is poorly adapted to electronic devices such as ATMs, computers, and mobile phones. For example, the new epidemic has resulted in negative incidents such as the inability of the rural elderly to access public places with a ‘health code’, and the huge “Digital Divide” in internet finance has affected the basic living conditions and convenience of the rural elderly to varying degrees. The “Digital Divide” in internet finance has affected the basic living conditions and convenience of the rural elderly to varying degrees.

In recent years, although the deep development of the Internet village has been effective, by the end of 2020, the Internet penetration rate in China’s rural areas was still only 55.9%, and the relevant Internet products and applications generally lacked old-age suitability and could not meet the needs of the elderly rural population in using the Internet, and the effectiveness of Internet financial behavior was still lacking. Thus, from the negative dimension of rights infringement, the “Digital Divide” between the elderly population and Internet finance in rural areas is also one of the causes of the lack of financial rights protection for the rural elderly population.

Theoretical Deconstruction of Financial Rights Protection for Rural Older People and Reference to Extraterritorial Experience

The theoretical deconstruction of the financial rights of the rural elderly can help clarify the theoretical causes of the dilemma of rights protection and provide a way forward for the resolution of the dilemma of rights protection in practice, and the consideration of the mature experience of rural financial development and financial rights protection of the rural elderly in other countries can provide a useful reference for the evolution of the localized system.

Presentation of the problem under the theoretical combing

1. Clarifying the causes of the phenomenon utilizing social stratification theory

"Social Stratification" refers to the various forms of differences and inequalities that exist in society, such as economic, political, cultural, and social. As reforms continue to progress, social stratification has emerged in rural areas, covering a wide range of areas and at a high rate of stratification, with increasing heterogeneity and still further differentiation. Whether according to the classical social stratification theory of Max Weber's legal, economic and social order, or using more recent social stratification methods such as occupational stratification or emerging housing stratification, the older rural population remains at the bottom of the social ladder due to the scarcity of resources of all kinds and the limitations of literacy. The negative function of social stratification can exacerbate social inequalities and fuel social tensions, so the elimination of negative externalities to achieve relative social equity is one of the goals pursued by governments.

Following the national strategy of prioritizing urban development, the rural aging population has paid a huge price and sunk to the bottom of the social ladder. On the economic front, the rapid urban development of rural areas in the era of urbanization and industrialization has been driven by a 'transfusion' of resources, resulting in the majority of the current rural elderly population being trapped in chronic economic poverty. In terms of institutions, the gap left by the economic withdrawal should be filled and supported by the subsequent resources provided by the institutions. However, along with the economic vacuum comes the institutional vacuum, and the rural elderly population is confined in the social stratification for a long time due to the lack of both economic foundation and institutional protection. Therefore, the empowerment and protection of the financial rights of the rural elderly will gradually resolve the spread of the negative effects of social stratification, and will also fill the costly void of rural financial disincentives.

2. Reliance on game theory to alleviate practical dilemmas

In the dynamic game field of the rural financial market between rural financial institutions and the rural elderly population, there is a difference in status between the two based on the prevalence of information asymmetry, which is a game of incomplete information. Generally speaking, the parties to the game usually choose the best game strategy to maximize their interests, and thus an imbalance usually occurs in such a game situation, and it is undoubtedly positive to achieve a game situation conducive to the financial rights of the rural elderly population through appropriate government intervention. On the one hand, due to the inadequacy of the existing credit system, rural financial institutions tend to raise the threshold of access to financial products or services based on the consideration of moral hazard control and adverse selection exclusion, and the direct result of such behavior of financial institutions is the indirect exclusion of the rural elderly from the financial field and the non-realization of their due financial rights. On the other hand, the limited financial capacity of the rural elderly population and the lack of necessary and appropriate guarantees due to institutional barriers are incompatible with the endogenous profitability endowment of rural financial institutions, which prefer to invest financial resources in areas with strong economic development and therefore reduce the financial supply to rural areas, thus naturally excluding the rural elderly population from financial services directly.

In essence, the imbalance in the game between rural financial institutions and the rural elderly population in the above-mentioned practices is caused by the failure of the rural financial market. Therefore, appropriate government intervention is needed to regulate the system and set the boundaries of behavior, to promote the formation of a stable dynamic game equilibrium between rural financial institutions and the rural elderly population.

Overseas experience in safeguarding the financial rights of the elderly in rural areas

1. Experiences of financial rights protection for the rural elderly in the region

The reduction of rights poverty and economic poverty is a common goal pursued by all countries in the world. Learning from international advanced practices can help improve the mechanism for safeguarding the financial rights of the elderly in China's rural areas. The sound rural financial system of the United States, the sound financial legal system of Japan, and the unique microfinance mechanism of Bangladesh are some of the more typical examples of the development of rural finance and the protection of the financial rights of the elderly in the international arena.

(1) The US experience of sound financial provision

The United States, as a typical representative of the developed Western countries, has lessons to offer in the development of rural finance and the protection of the financial rights of the rural elderly. The core of its system is a sound "multi-organization complex" rural financial system. At present, the United States has formed a financial structure based on commercial financial institutions and individual credit, supported by government agricultural lending institutions and led by the agricultural credit system of rural cooperative finance, including cooperative, policy, and commercial rural financial systems and agricultural insurance systems. The clear division of labor between the various financial institutions ensures that the financial needs of rural development, the aging rural population, and other actors are met and that the direction and scale of finance are adapted to the goals of the different stages of rural development. In summary, the US has a well-developed rural financial structure that provides a comprehensive and multi-layered guarantee of the financial rights of the rural elderly.

(2) Japanese experience in improving the legal system

Japan, as a country with a high degree of similarity to China in the evolution of population aging and urban-rural development processes, has institutional lessons to offer in terms of eradicating economic poverty and financial rights poverty among the rural elderly. For example, Japan has enacted the Rural Cooperative Organization Act, the Agricultural Production Cooperative Act, the Aquaculture Production Cooperative Act and the Central Bank of Agriculture and Forestry Act in the field of cooperative finance, the Agricultural, Forestry and Fisheries Finance Corporation Act, the Small and Medium Enterprises Finance Corporation Act and the Japan Policy Finance Corporation Act in the field of policy finance, and the Livestock Insurance Act, the

Agricultural Disaster Compensation Act and the Agricultural Insurance Law. The Agricultural Disaster Compensation Act, the Agricultural Credit Guarantee Insurance Act, etc. The National Pension Act, the Agricultural Workers' Pension Fund Act, the National Pension Fund System, and the Care for the Aged Act have been enacted to combat financial poverty. After many years of development, Japan's legal system for rural finance has become almost comprehensive, adapting not only to the existing system of rural finance development but also to the specific group of the elderly rural population with a comprehensive care and protection character. Japan's successful institutional experience shows that a well-developed legal system for rural finance is essential for the development of the rural economy and the protection of the financial rights of the elderly population.

(3) Bangladesh's experience with the materialization of financial rights

Although Bangladesh is one of the poorest countries in the developing world, Grameen Bank, a microfinance institution founded by Muhammad Yunus, has received worldwide attention and has developed a unique financial service model. Grameen Bank provides microfinance services such as deposits, loans, and insurance to the rural poor. To solve the problems of collateral and information asymmetry for the rural poor, the Grameen Bank has created a very special "group + center" lending mechanism, which consists of a loan group of five borrowers, with the group using joint guarantees instead of guarantees and monitoring each other to form internal constraints. Regular meetings are held to check the status of the project and to exchange experiences. Ultimately, it is a model of financial poverty alleviation through the use of organized cooperation to realize the financial rights of the rural population through a special operating mechanism that is both profitable and sustainable, and which provides food for thought for the centralized expression of the financial rights of the decentralized rural elderly population in China.

2. Insights into financial rights protection for the rural elderly in the region

The successful experiences of rural financial development in the US, Japan, and Bangladesh show that, on the one hand, a smooth rural financial structure and a sound rural financial legal system that protects the financial rights of the rural elderly can create a benign market environment and provide strong institutional regulation. On the other hand, the adoption of cooperative mechanisms to break the institutional barriers to the realization of the financial rights of the rural elderly, as well as the provision of targeted financial products and social support to the rural elderly, can help to better realize the protection of the financial rights of the rural elderly.

In the context of China's actual situation, at the macro level, although China's rural financial institutions currently include various types of financial institutions such as cooperative, policy, commercial and new rural financial institutions, the withdrawal of relevant policy and commercial financial institutions from rural areas and the withdrawal of branches have inadvertently suppressed the development of rural finance, and the reformed cooperative rural financial institutions and new rural financial institutions are gradually playing the role of developing, However, the withdrawal of policy and commercial financial institutions from the countryside and the withdrawal of their branches have inadvertently suppressed the development of rural finance. Looking at the successful experiences of the United States and Japan, the functions of rural financial

institutions should be reconstructed based on the dual values of fairness and efficiency, not only to give play the decisive role of the market in resource allocation but also to provide institutional support at the legal level, to achieve substantial social equity in the protection of the financial rights of the elderly rural population. At the micro level, the Grameen Bank's micro-credit mechanism provides a new paradigm and a new way of thinking to address the problem of asymmetrical information and improve the remedy of rights through the formation of organized groups through cooperation. It should be clear that the successes of national practices are based on national realities, and it is prudent for China to learn from these experiences while taking them into account rather than importing them.

Optimization of the way forward for the financial rights protection of the elderly rural population in China

The realization of institutional protection of the financial rights of the rural elderly is not only an important part of the comprehensive promotion of the rural revitalization strategy but also a profound implementation of Xi Jinping's rule of law thought of ruling the country according to the constitution. The protection of the financial rights of the rural elderly population in China can be carried out through the determination of the financial rights of the rural elderly population, the definition of the boundary between the actions of the government and financial institutions, the innovation of the supervision mode of the elderly-related business of rural financial institutions, and the provision of avenues of redress for the financial rights of the rural elderly population.

Promoting the identification of financial rights of the rural elderly

Institutional recognition of rights is an important prerequisite for guaranteeing the realization of the financial rights of the rural elderly. Every rational person should enjoy rights, freedoms, opportunities, income, and wealth. As a fundamental extension of the fundamental rights of citizens in the Constitution, the implementation of financial rights in sectoral laws is not only a reflection of the consistency of the legal order but also an important guarantee of social justice. Regrettably, no norm echoes this in the law to date. Article 3 of the Law of the People's Republic of China on the Protection of the Rights and Interests of the Elderly sets out the rights to which the elderly are entitled, but the content of these three rights are too vague, making it particularly necessary to promote the identification of the financial rights of the rural elderly population.

1. Improving special legal norms to safeguard the financial rights of the rural elderly

In 2015 and 2017, the Central Government's No. 1 document explicitly proposed to "actively promote rural financial legislation", but historically all that has been introduced are administrative regulations, departmental rules, and numerous policy documents of the State Council. The reason for this situation is, on the one hand, the lack of specific legal regulations for rural finance and, on the other hand, the absence of the financial rights of the rural elderly population in law, which has led to the need for administrative means to dominate the allocation of rights and powers, and the urgent need to confirm the financial rights of the rural elderly

population. The following two paths can be taken to establish a mechanism to guarantee the legal regulation of the financial rights of the rural elderly population. The first is to build a systematic and complete rural financial legal system. History has shown that the lag in the construction of China's rural financial legal system is even more detrimental to the development of the rural economy and finance, while the successful experience of rural financial development in the United States and Japan shows that a sound financial legal system is crucial to the healthy development of rural finance and the protection of farmers' financial rights. At present, China has already formed a diversified structure of a rural financial system, so we can consider enacting separate laws for various types of financial organizations, such as the Rural Cooperative Finance Law and the Rural Policy Finance Law, or we can learn from the experience of Japan's Care for the Elderly Law to set up special laws for the protection of the financial rights of the rural elderly. Secondly, the Law on the Protection of the Rights and Interests of the Elderly should include provisions on the financial rights of the rural elderly. Given that the rural elderly population is different from the urban elderly population, the rights of the rural elderly population to use financial products or services and to share the fruits of financial development can be added to Chapter 3 (social security), Chapter 4 (social services) and Chapter 5 (social welfare) of the Law on the Protection of the Rights and Interests of the Elderly. In addition, it is important to clarify the obligations of the State and rural financial institutions to provide and guarantee this.

2. Improve supporting measures to safeguard the financial rights of the rural elderly

Supporting measures have an indispensable complementary function in building a system of financial rights protection for the rural elderly. The vitality of legal norms lies in practice, and the effectiveness of practice can expand the demonstration of institutional advantages. In this regard, we can start from the following aspects: firstly, we can continue to promote the construction of rural infrastructure and increase the penetration rate of Internet-inclusive finance in rural areas, to alleviate the negative externalities of the Digital Divide and reduce the operating costs of the system. Secondly, we should improve the mortgage guarantee system for rural land in the market, to provide support for the adequate allocation of financial resources for the elderly rural population. For example, under certain conditions, agricultural land can be given the functions of lease, transfer, and mortgage, to enhance the efficiency of the use of agricultural land resources and lower the threshold of financing guarantee for the rural elderly. Thirdly, we should improve the insurance and reinsurance system in line with the characteristics of rural economic development, and improve the financial compensation mechanism for the rural elderly population. As income from farming is the main source of income for some of the rural elderly, setting up a financial system for them, such as insurance and reinsurance, can help mitigate the high risks of the smallholder economy. Fourth, the incentives and constraints of rural financial institutions should be improved to ensure that rural financial institutions are motivated to support agriculture and that their financial activities are standardized. For example, a mandatory agricultural support target to help the elderly rural population can be added to the application requirements for the establishment of rural financial institutions, and corresponding incentive and penalty clauses can be set according to the target. Fifth, strengthen the construction of the rural credit system and cultivate a good rural financial ecological environment. Financial service levels can be set for the rural elderly according to their credit rating to achieve effective protection for rural financial institutions, while bad practices of rural financial institutions should be severely regulated to protect the rights and interests of the rural elderly. In conclusion, a sound and complete

institutional system can provide strong protection for the financial rights of the rural elderly population, and the overall institutional effect will be enhanced through the formation of a legal system with special legal regulations as the main body, complemented by supporting systems.

Define the boundaries between the conduct of government and financial institutions

Appropriate configuration and clarification of the operational structure and ownership boundaries between government and financial institutions is an important support to achieve the preservation of the financial rights of the rural elderly. The principle of social relevance requires the government to adhere to its role of financial regulation, while rural financial institutions must not engage in financial activities that seek to maximize profit at the expense of the overall public interest of society. In other words, whether it is the government's decision to promote urbanization and industrialization or the financial institutions' essential tendency to pursue economic interests, they should focus on the priority of equity values in the pursuit of efficiency values, thus reflecting the respect and protection of the financial rights of the rural elderly.

1. Clarify the government's lead conservation responsibility

The government's leading protection of the rural elderly is a necessary requirement for the construction of a government based on the rule of law with unified powers and responsibilities. In terms of the protection of the financial rights of the rural elderly, the government's protection responsibilities can be summarised as economic and political responsibilities. The first is the economic protection responsibility, which refers to the government's responsibility to intervene appropriately to overcome the failure of the rural financial market in the current situation of imbalance between supply and demand in rural finance. The second is the political responsibility to protect, which refers to the duty to formulate public policies that meet the financial rights needs of the rural elderly population and to ensure their implementation. In China, where the political monolithic structure is dominated by executive power, the power to support basic areas and key industries cannot be ignored. Therefore, in the context of both positive and negative infringements of the financial rights of the rural elderly, clarifying the government's responsibility to protect is effective in strengthening the roots of rights protection.

2. Demonstrate the social function responsibility of financial institutions

The profit-seeking nature of rural financial institutions is effective in achieving their sustainable development and promoting the development of the rural economy. As an important sinking subject of China's macro-regulation, rural financial institutions are the ballast for the effective and smooth operation of the rural economy, and as the most important legal department of macro-regulation, the basic principle of social orientation of economic law indicates that the dual-oriented social responsibility of increasing rural financial supply and serving the aging rural population It is the responsibility of the society. The legitimacy of this responsive design lies in the fact that, firstly, clarifying the function of rural financial institutions to support agriculture is conducive to the pursuit of fair value, secondly, ensuring the sustainable development of rural financial institutions is conducive to the realization of efficiency value, and thirdly, giving priority to fair value is con-

ducive to the achievement of mutual integration of values. In addition to rural policy finance, which should further strengthen its support for agriculture, rural cooperative and commercial financial institutions as well as new rural financial institutions should take the initiative to assume social responsibility to serve the rural elderly population and serve the financial development of the elderly. Specifically, while satisfying their development, rural commercial financial institutions should promote the transfer of more financial resources to invest in the agricultural sector to ensure adequate macro domestic demand, while new rural financial institutions and rural commercial banks, as typical representatives of rural cooperative financial institutions, should innovate heterogeneous age-friendly, and inclusive financial products and expand the scale of services to ensure the completeness of micro supply.

Innovative regulatory models for rural financial institutions' business involving the elderly

Innovation in the regulation of financial institutions related to the elderly is an important support to ensure the realization of the financial rights of the rural elderly. Financial regulation is one of how the government uses its administrative power to achieve socially beneficial goals. However, to summarise, the previous model of rural financial regulation was mostly government-led, and there were problems such as unclear authority and responsibility arising from multi-sectoral regulation and lack of uniform regulatory standards. Therefore, the horizontal dimension of differentiated regulation of heterogeneous institutions and the vertical dimension of relaxed access and strengthened risk control are important ways to fulfill the obligations of rural financial institutions concerning the elderly.

1. Differentiated regulatory mechanisms in the horizontal dimension

Clarify regulatory subjects and objects, and implement differentiated regulatory mechanisms in the horizontal dimension. In the current legal regulation of rural finance, external regulation is the responsibility of many departments such as the Central Bank and the CBRC, while internal regulation is based on the specific system of the department, which restricts the effectiveness of regulation due to the unification of urban and rural areas, unclear powers and responsibilities and different standards. Cooperative, policy-based, commercial rural financial institutions and new rural financial institutions have different financial functions based on different policies, thus forming a more systematic rural financial system, with various rural financial institutions working together and undertaking different financial functions to support agriculture, thus requiring function-oriented supervision based on different risk characteristics. In short, large rural policy and commercial banks such as the Agricultural Bank of China, the Agricultural Bank of China and the Post Office should be monitored by more macro-level development and service-oriented indicators, while cooperative financial institutions such as agricultural credit societies, agricultural commercial banks, new rural financial institutions, and rural private financial institutions should be monitored by micro-level safety indicators to ensure the health of their development and the safety of their services.

2. Vertical dimension to strengthen risk prevention and control supervision

The combination of easing access and setting the scale, and strengthening risk prevention and control supervision in the vertical dimension. New rural financial institutions can fill the space left by the withdrawal of traditional financial institutions, lowering the entry standards for the rural financial market and setting a moderate limit on the scale of operation can further expand the effectiveness of supporting agriculture. The widespread promotion and diversification of new institutions increase the possibility of financial risks, so financial regulators are required to strengthen the corresponding risk prevention and control supervision. The first is to set a reasonable scale of operation for rural financial institutions to effectively address the challenges of rural financial costs and risks. Second, improve the information disclosure system of rural financial institutions to prevent some financial institutions from directly infringing on the rights of rural elderly people through arbitrage and fraud. Third, improve the risk warning and tracking mechanism to ensure that the financial rights of the rural elderly are effectively protected and remedied. The problem of "quantity" of rural financial supply can be solved by lowering the entry threshold, while the problem of "quality" of rural financial supply can be alleviated by controlling the scale of the operation beforehand, improving information disclosure during the process, and early warning and tracking afterward. The effective connection between the two can optimize the vertical prevention and control of rural financial risks.

Providing access to remedies for the financial rights of the rural elderly

The improvement of the right to redress is an important guarantee for the realization of the financial rights of the rural elderly. As the proverb goes, "Where there is a right, there must be a remedy", which can make abstract rights materialize. As a disadvantaged group in society, the elderly rural population lacks the necessary economic, legal, and other resources in the process of redressing their rights, which makes them unable to do so.

1. Break the dilemma of insufficient self-help capacity through organized cooperation

The Bangladesh Financial Assistance and Cooperation Group (BFACG) offers a possible solution to the problem of exclusion of the rural elderly due to their disadvantaged resource endowment in many ways, namely, the establishment of a social organization to express the financial rights of the rural elderly. Specifically, it is possible to explore the establishment of an organization for the protection of the financial rights of the rural elderly, with village collectives as the unit and the rural elderly as the main body, so that the financial rights of the rural elderly can be effectively protected in a standardized and organized manner, with the dual effect of protecting their rights and social stability. The organization can promote financial literacy and reduce the "Digital Divide" in internet finance through financial literacy publicity and education, enhance the confidence of rural financial institutions in serving the elderly population through joint insurance instead of guarantees, and enhance the rights claims and remedial capacity of the rural elderly population through mutual assistance and cooperation.

2. Safeguarding financial rights through tilted court discretion

As the last line of defense for social justice, the judiciary's inclined protection of the financial rights of the rural elderly is not only a correction of the history of prioritizing efficiency in financial development, but also an important step towards achieving substantive social justice. Based on the limitations of the rural elderly population's economic and social resources, the courts should provide the rural elderly population with convenient litigation conditions for the cases they receive, such as providing special legal aid, providing transportation convenience services for the rural elderly population who need to appear in court, reducing or waiving litigation fees, and setting up ex officio court investigation service options for the high-cost burden of proof. In short, a tilted judicial remedy is a bottom-line barrier to protecting the financial rights of the rural elderly population. After the mechanism for claiming rights is unblocked, the optimal remedy for the elderly population can then be achieved through the biased discretion of the court.

Conclusion

The protection of the financial rights of the elderly in rural the area is an inherent requirement for the realization of constitutional human rights. In the practice of rural financial development in China, there are positive violations represented by financial fraud and financial exclusion, and there are also negative violations including excessive profit-taking by rural financial institutions and the "Digital Divide" of Internet finance. Using social stratification theory as a tool to theorize the current situation of financial rights protection for the elderly in rural areas can clarify the real-life dilemma of insufficient rights protection while using game theory to reveal the essence of rural financial market failures can provide a rational basis for appropriate government intervention. In the process of developing rural finance, a sound financial supply system, a sound financial legal system, and a mechanism for the materialization of financial rights can provide useful lessons for the protection of the financial rights of the elderly in rural China. The optimization of financial rights protection for the elderly in rural areas is an effective way to consolidate the achievements of poverty eradication and to realize the financial development of rural revitalization in response to the aging population.

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