

On the Institutional Guarantee of "Silver Economy" in China's Constitution

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Abstract: Population aging has become an inevitable trend in China's demographic development and a critical challenge in advancing Chinese-style modernization. As a people-centered constitution, China's legal framework serves as the fundamental charter for governance and holds supreme legal status, providing robust institutional safeguards for the "silver economy". Specifically, constitutional legislation ensures legislative implementation, establishes legislative guidance, expands legislative scope, and creates binding legal frameworks. Under scientific legislative principles, national obligations encompass both proactive and reactive responsibilities. Constitutional compliance reviews provide comprehensive safeguards, forming a complete institutional ecosystem for the silver economy under China's constitutional framework.

Keywords: Constitution; Silver Economy; Institutional Safeguards; Elderly Rights; Legislation

1. Introduction: Constitutional Responses to the "Silver Economy"

China is currently in the implementation phase of its 15th Five-Year Plan, with its economic model transitioning from high-speed growth to high-quality development. This shift brings practical challenges such as upgrading development approaches, optimizing economic structures, and transforming growth drivers [1]. Meanwhile, demographic realities characterized by low birth rates and an aging population are subtly reshaping various aspects of the nation's socio-economic landscape. In this context, fostering sustainable development of the silver economy emerges as a key strategy to effectively address population aging.

In 2024, the government issued the "Opinions on Developing the Silver Economy to Enhance Elderly Well-being," explicitly defining the "silver economy" as "the aggregate of economic

activities providing products services for seniors and preparing for aging stages." Population aging has increasingly become both a critical challenge and opportunity for China's transition into a modern powerhouse. To develop the silver economy and ensure comprehensive basic pension rights for all elderly citizens, it is essential to establish a legal framework for elderly care services centered on the Constitution, supported by laws such as the "Law on the Protection of Elderly Rights and Interests" and the "Law on Elderly Care Services." [2].

In October 2022, the report of the government proposed to "improve the legal system with Chinese characteristics centered on the Constitution." The Constitution needs to provide fundamental institutional guarantees for the comprehensive construction of modern "silver economy" at the level of rule of law. First, China's Constitution has a people-oriented nature: the expression of ideology in the constitutional text elucidates that the Chinese people enjoy basic rights through legislation construction [3]; Second, the fundamental status of the Constitution determines that all major national institutions will be encompassed and regulated by it: China is currently experiencing rapid population aging, with Chinese-style aging overlapping with the process of Chinese-style modernization [4], making the "silver economy" a significant issue in national development and a crucial subject for constitutional adjustment; furthermore, as the overarching charter for governance, the Constitution can provide legal safeguards for the "silver economy" throughout the entire process.

Current academic discourse on the "silver economy" primarily draws from research on elderly care services. Scholars in sociology, management science and economics focus on validating its necessity and feasibility [5]; while legal studies concentrate on micro-level issues such as administrative legislation frameworks and implementation pathways for smart elderly

care services, yet lack macro-level normative interpretations [6]. Building upon existing legal foundations of the "silver economy," this paper aims to clarify the intrinsic logical connection between China's constitutional norms and the "silver economy," explore fundamental constitutional safeguards for its development, and propose recommendations for establishing a legal framework. These efforts seek to provide actionable pathways for promoting high-quality growth in the silver economy sector.

2. Constitutional Interpretation Level of the "Silver Economy"

2.1 The Dominant Factor of "Silver Economy" Is the People

From a biological perspective, the human life journey generally progresses from embryonic development into fetal stage, followed by infancy and youth after birth, then gradual aging through middle age until death. Throughout this process, every individual inevitably becomes an elderly person, constituting the core demographic for the "silver economy." Man is the sum total of all social relations. Personal development serves as the objective foundation for socioeconomic progress, necessitating that nations create favorable conditions to support the growth of every individual within society.

2.2 The "Silver Economy" Requires Ensuring the Realization of Equality Rights

The "silver economy" is primarily driven by the elderly population, who, as a relatively vulnerable group within society, require stronger constitutional safeguards for equal rights. Constrained by productivity limitations, humanity currently faces challenges in resource allocation due to finite collective resources, necessitating strategic negotiations and compromises among social groups [7]. Such inter-individual conflicts of interest inevitably lead to resource disparities. Therefore, institutional mechanisms must be established to resolve these conflicts and address rights imbalances, thereby ensuring equitable distribution of benefits. As a stabilizing force in social interactions, constitutional equality rights serve as the cornerstone for protecting human rights and maintaining social stability [8].

2.3 The Responsible Entity for the "Silver Economy" Is the State

The protection of people's rights constitutes the fundamental purpose of state power and represents the core values of a rule-of-law nation and its constitution [9]. As the primary responsible entity, the state bears legal obligations rather than secular moral duties, requiring both proactive and reactive measures to fulfill its responsibilities — failure to do so would constitute violations of laws, particularly the constitution. The state must formulate macro policies and establish supporting institutional frameworks, ensuring the realization of people's rights through material provisions, organizational mechanisms, and procedural safeguards [10].

3. The Meaning of "Silver Economy" in China's Constitution

3.1 "Silver Hair": The Constitutional Basis for Elderly Rights Protection in China

Respecting and caring for the elderly is a traditional virtue of the Chinese nation, exerting lasting, extensive, and profound influence on Chinese society and profoundly impacting the contemporary rule of law in China [11]; The ideal society where "the elderly have a dignified end, the able-bodied find purpose, the young grow up, and the widowed, orphaned, disabled, and infirm are all well cared for" has been the common value pursuit of ruling classes throughout various periods; Confucianism holds that supporting parents is the duty and obligation of every child, and the concepts of filial piety and fraternal love need to be extended from individual families to society as a whole [12]; Confucian thought shares certain consistency with the fundamental goals of prosperity. Implementing the protection of elderly rights and interests requires a legal foundation, and the foundation of the rule of law lies in the constitution.

The preamble of China's Constitution outlines the goal of "building the nation into a prosperous, democratic, culturally advanced, harmonious, and beautiful modern power," which unequivocally embodies the principles of civilization and social harmony in safeguarding the rights of the elderly population. Article 14 stipulates that "the state shall establish and improve a social security system commensurate with economic development levels," including provisions for elderly livelihood security within this framework. Articles 21 and 22 address

healthcare services and cultural initiatives respectively, both applicable to senior citizens. Article 44 establishes living security measures for retirees, aiming to ensure elderly care support. Article 45's provisions on material assistance rights directly reflect the proactive obligations of the state and society in protecting senior citizens' rights. The fundamental nature of elderly rights requires the creation of favorable conditions by the state and society to ensure their realization. Accordingly, China's Constitution not only defines the rights of the elderly population and guides institutional development, but also clarifies the state's proactive role as the primary responsible entity [13].

3.2 "Economy": The Guiding Principle of Resource Allocation in China's Constitution

China's Constitution stipulates the economic system of a market economy with Chinese characteristics, clarifying an economic pattern where public ownership plays the dominant role and various forms of ownership develop together; implements a distribution system where distribution according to work is the mainstay alongside multiple distribution methods; emphasizes the decisive role of the market in resource allocation and the state's macro-control; and defines the inviolability of public property and citizens' private property.

Under the overarching guidance of the Constitution, China's economic system, on one hand, ensures the effective operation of market mechanisms and stimulates society's wealth creation capacity [14]. On the other hand, it balances distributional fairness and efficiency, reduces the risk of market failure, and promotes the realization of equal values [15]. This achieves a balanced integration of "prosperity" and "market economy." Accordingly, the market economy with Chinese characteristics is a market economy based on the common development of various forms of ownership, pursuing social justice and common prosperity [16].

3.3 The Rich Connotations of "Silver Economy" in China's Constitution

In July 2024, the government clarified that "ensuring and improving people's livelihoods in the course of development is a major task of Chinese-style modernization," highlighting that the essential attribute of Chinese-style

modernization is people-first and emphasizing the need to actively address the basic national conditions of a small population, low birth rates, and aging population to promote Chinese-style modernization, with high-quality development of the "silver economy" as the value orientation and focus of work. In September 2024, the chairman of China pointed out that "The happiness of a society is largely determined by the happiness of its elderly population." According to the constitutional text, promoting the development of the "silver economy" must adhere to a people-centered development philosophy, guided by the needs and well-being of the elderly, uphold the concept of sustainable development, and balance horizontal equity within generations and vertical equity across generations [17]. Under the market economy system with Chinese characteristics led by the Constitution, "concentrating resources to accomplish major tasks" represents China's greatest institutional advantage. To further comprehensively deepen reforms and advance the realization of Chinese-style modernization, it is essential to explore a modern economic construction model with Chinese characteristics, coordinate and allocate advantageous resources, and promote the "silver economy" from localized breakthroughs to holistic improvement, thereby fostering its high-quality development [18].

In summary, the profound significance of the "silver economy" in China's Constitution stems from the following aspects: At the constitutional level, it affirms and safeguards the nation's commitment to fulfilling the people's growing aspirations for a better life; the constitutional framework's fundamental protection of elderly rights further highlights the people-centered political ethos; the Constitution establishes an open and innovative foundation for both the "silver economy" and the broader practice of Chinese-style modernization; leveraging the constitutional provisions' institutional advantages and systemic integration capabilities, it creates institutional safeguards for the development of the silver economy.

4. Implementation Pathways of "Silver Economy" Guaranteed by China's Constitution

4.1 Application of the Constitution

The application of constitutional principles is

constructed through three interconnected dimensions: constitutional spirit, constitutional principles, and constitutional provisions. These elements form a tripartite relationship characterized by specificity, abstraction, and re-abstraction. From a normative application perspective, provisions should be applied first; when provisions are unclear, principles may be invoked; and only when principles lack explicit guidance should constitutional spirit be interpreted. However, these dimensions are not hierarchically progressive but rather mutually interdependent. All provisions serve as concrete manifestations of constitutional spirit and principles, while all principles originate from constitutional spirit and are expressed through specific provisions. Furthermore, constitutional spirit must be articulated through principles and provisions. For instance, constitutional provisions on citizens' fundamental rights embody the state's fundamental principle of respecting and safeguarding human rights, further reflecting the people-centered constitutional spirit. The constitutional application regarding institutional safeguards for high-quality development of the silver economy requires case-by-case analysis: certain industries (e.g., healthcare and cultural activities) may directly apply constitutional provisions; specific scenarios (e.g., elderly care services and medical facilities) require multiple constitutional provisions; and certain cases (e.g., the elderly's right to psychological assistance) may necessitate interpretation through constitutional principles or spirit.

The constitutional applicability serves as the fundamental basis for institutional development and legal safeguards in the "silver economy," while establishing supporting operational frameworks. Applying constitutional principles requires establishing foundational provisions for subordinate legislation and providing lawful, reasonable, and flexible interpretations based on practical circumstances. The rights framework governing the silver economy must primarily adhere to existing constitutional provisions, while interpreting unenumerated rights and emerging rights through a people-centered development philosophy.

4.2 Legislation in Accordance with the Constitution

The Constitution serves as a fundamental law of a nation, establishing its basic institutions and

guiding the overall development of the state and society through core principles. Given the principled nature of constitutional norms, detailed regulations for minor aspects in national and social development must be formulated through legislative activities. Laws and regulations enacted through such legislation must adhere to constitutional guidance and must not contravene the Constitution. In 2024, the government explicitly stated the need to "fully implement constitutional provisions, principles, and spirit" and "insist on constitutional legislation." "Constitutional legislation constitutes the foundational element and core content of upholding constitutional governance, an essential requirement for refining the constitutional-centered legal system, and a prerequisite for conducting constitutional review [19].

China's Constitution already contains relevant provisions that can provide guidance for the "silver economy," requiring further legislative implementation to ensure protection. Based on the people-centered development philosophy, legislation should be enacted to safeguard citizens' fundamental rights as stipulated in the Constitution. To establish supporting systems, legislative reforms promoting government restructuring must align with constitutional provisions governing state institutions. For specific constitutional provisions related to pension security and material assistance rights, legal improvements or local legislation should be accelerated. Constitutional legislation requires a step-by-step approach rather than immediate implementation, with prioritization of different legislative dimensions. While constitutional principles and spirit rarely generate explicit legislative mandates, their application must guide future legislation under certain conditions to meet the practical needs of high-quality silver economy development. Current laws and regulations related to the silver economy primarily focus on the Law on the Protection of the Rights and Interests of the Elderly, scattered across civil law, social insurance legislation, and various administrative regulations. Expanding legislative space requires leveraging constitutional principles. Constitutional application should impose institutional constraints through legislative activities, establishing obligations to act within prescribed boundaries and prohibiting prohibited actions, while ensuring compliance with

constitutional requirements during legislative processes [20].

4.3 Rights Protection

The development of the "silver economy" should prioritize the needs and well-being of the elderly, addressing the public's growing demand for a better life and adhering to a people-centered development philosophy. Constitutional safeguards for the "silver economy" must be grounded in institutional practice, requiring the establishment of a comprehensive system to express the interests and protect the rights of the elderly population. These rights norms encompass both positive obligations and negative obligations toward the state [21].

China's Constitution is not merely a fundamental law governing state power [22]. Therefore, in rights protection, to promote high-quality development of the silver economy, the state bears explicit positive obligations by proactively creating conditions to safeguard the rights of diverse stakeholders including elderly populations and professionals across the elderly care industry chain. State power must exercise rational restraint to fulfill negative obligations, minimizing potential infringements on citizens' rights. Under this premise, state organs should standardize power exercise and establish corresponding redress mechanisms for citizens' rights protection, thereby defining power boundaries and preventing unlawful or unreasonable actions that may violate citizens' rights and hinder the overall development of the silver economy.

4.4 Constitutional Review

Constitutional review serves as a vital mechanism for implementing and overseeing constitutional compliance. Following the 2018 constitutional amendment, this system has been actively and effectively advanced in China. It permeates every stage of legislative activities, conducting comprehensive evaluations of review subjects, reviewing entities, and procedural frameworks. Logically, constitutionally grounded legislation forms the prerequisite for constitutional safeguards in the silver economy sector. Therefore, constitutional review of legislative activities involving rights protection — covering their formulation, execution, and implementation—is both necessary and feasible. Consequently, constitutional review provides a

robust safeguard for the constitutionality, legality, and appropriateness of constitutional protections in the silver economy.

Legislative initiatives guided by the "silver economy" and its "growing needs for quality living standards" should primarily adopt constitutional presumption principles, supplemented by unconstitutional presumption standards. While ensuring social equity and protecting the rights of elderly populations and industry stakeholders, appropriate legal flexibility should be granted to support the development of silver economy-related industries. Rapid advancements in AI technology will become pivotal drivers for high-quality growth in the silver economy, yet legislative processes often struggle to keep pace with interdisciplinary innovations. Therefore, legislation targeting the silver economy must demonstrate flexibility and foresight to accommodate emerging technologies, innovative business models, and experimental approaches while encouraging innovation through trial-and-error mechanisms. Concurrently, it is crucial to prevent legislation that imposes excessive or unreasonable restrictions on citizens' rights, thereby safeguarding proportionality and purposefulness in state governance. Specifically: First, legislative measures concerning citizens' rights should adopt lenient review standards. The core value orientation of the silver economy prioritizes people-centered principles. As a multifaceted national strategy, it must address concrete challenges in healthcare, environmental protection, and social security systems. While fulfilling citizens' escalating demands for better living standards, legislation should also align with higher expectations for modernization under the rule of law. Accordingly, legislative actions must objectively reflect collective public will and respond to legitimate societal needs. Second, institutional legislation requires balanced standards: Such policies must consider diverse factors and scenarios across multiple dimensions, maintaining a balanced approach that combines openness with prudent deliberation [23]. Furthermore, stringent standards should be applied to legislative activities involving state or public authority. Given the inherent expansiveness of state power and its persistent dominance over individuals, while fulfilling positive obligations toward the silver economy, it remains essential to 'put power in check' to prevent judicial practices

from deviating from legislative intent.

5. Conclusion: The Significance of Constitutional Protection for the "Silver Economy"

Vigorously developing the "silver economy" can meet various social demands primarily addressed by the elderly population, address the demographic challenges of low birth rates and aging, optimize industrial structures, explore new drivers of economic growth, and promote the realization of Chinese-style modernization. The concept of the "silver economy" embodies the fundamental guidance of prosperity with Chinese Characteristics for a New Era in addressing population issues related to low birth rates and aging. As the overarching charter for governance and the fundamental law of the state, China's Constitution, which has a people-oriented nature, provides institutional safeguards for "silver economy", which is both necessary and feasible. Constitutional provisions concerning respect, protection, and expansion of rights, institutional reforms, and system reinforcement reflect the concrete implementation of respecting and protecting human rights within the framework of the rule of law and optimizing and improving state power, serving as a powerful interpretation of meeting the "people's growing needs for a better life." Based on constitutional safeguards for the "silver economy," a legal system with Chinese characteristics is formed. Constitutional application serves as the institutional prerequisite, providing a foundation for legislative activities; scientific legislation in accordance with the Constitution is a crucial approach to implementing constitutional application; and constitutional review provides a safeguard for the constitutional protection of the "silver economy."

Guided by the Constitution, the legal system for the development of the "silver economy," which includes rights protection, institutional reform, and institutional strengthening, concretely implements the respect and protection of human rights at the level of rule of law, and reflects the development philosophy of "meeting the people's growing needs for a better life" in legislative norms, forming a constitutional safeguard system with the characteristics of China in the new era. From general theoretical discussions on the "silver economy" to normative expressions at the constitutional level,

it constructs a framework for the "silver economy" from political discourse to legal norms, highlighting the unique legal function of the Constitution in the development of the "silver economy" and endowing its prospects with greater legal practical significance.

References

- [1] Youhua Chen and Yongjian Sun. The Development of the Silver Economy: Problems and Prospects. *Journal of Sichuan University (Philosophy and Social Sciences Edition)*, 2025, 5-14, 226.
- [2] Jinxue Fan and Chongchong Ma. On the Ten Urgent Problems in China's Elderly Care Service Legislation. *Journal of Nantong University (Social Sciences Edition)*, 2025, (41):100-116, 160.
- [3] Liantai Liu. On the Ideological Attribute of the Constitution. *Journal of Beijing Union University (Humanities and Social Sciences Edition)*, 2017, (15):24-35.
- [4] Xizhe Peng and Xiang Zhou. China's Second Demographic Dividend: Theoretical Inquiry and Governance Options. *Governance Studies*, 2024, (40):2, 4-16, 156.
- [5] Xiaochun Qiao. Demand-Based Construction of Elderly Care Service System: Ideas, Framework and Empirical Analysis. *Journal of Huazhong University of Science and Technology (Social Sciences Edition)*, 2022, (36):113-122.
- [6] Xianyong Wang. On the Legal Attribute of Elderly Care Services. *Journal of Shanxi University (Philosophy and Social Sciences Edition)*, 2023, (46):132-139.
- [7] Maolin Liu and Xifeng Yi. The Constitution as the Rule for Organizing the Community. *Law Review*, 2007, 15-22.
- [8] Haikun Yang. Legislative Protection of Constitutional Equality and Vulnerable Groups' Rights: Taking Elderly Rights Protection Legislation as an Example. *Law Science Magazine*, 2013, (34):44-52.
- [9] Wei Zhang. Respect and Protection of Human Rights as the Core Value of a Law-Based State. *Modern Law Science*, 2015, (37):25-31.
- [10] Guanghui Wang. A Constitutional Analysis of the State's Elderly Care Responsibility. *Jinan Journal (Philosophy and Social Sciences Edition)*, 2020, (42):84-96.
- [11] Fangxing Ye. Contextual Analysis of the

- Integration of Rule of Law and Rule of Virtue in Contemporary China. *Journal of Central South University (Social Sciences Edition)*, 2022, (28):37-45.
- [12]Shangyuan Zheng and Cheng Fu. The Improvement of the Legal System for Elderly Care Services. *Social Science Front*, 2025, 205-214.
- [13]Guanghui Wang. An Analysis of the Constitutional Basis of “Aging Rule of Law” in China. *Journal of Nantong University (Social Sciences Edition)*, 2022, (38): 110-121.
- [14]Yun Pan. On “market Economy” in the Constitution: A Normative Analysis Focused on the Constitutional Text. *Political Science and Law*, 2015, 78-91.
- [15]Dayuan Han. The Normative Structure of “market Economy” in China’s Constitution. *China Legal Science*, 2019, 5-26.
- [16]Jinglian Wu. Comprehensively Building a market Economic System. *Law Science*, 2003, 3-8.
- [17]Renwu Tang and Yushan Yang. The People’s Livelihood Path for China’s Modern State Construction. *Journal of National Modernization Research*, 2024, (3):83-99
- [18]Juheng Li, Yunbei Wu and Hong Wu. Connotation and Path of High-Quality Development of the Silver Economy under Chinese-Style Modernization. *Northwest Population Journal*, 2025, (46):114-126.
- [19]Zhen Zhang. Normative Implication and Legislative Expression of “This Law Is Formulated in Accordance with the Constitution”. *Political Science and Law*, 2022, 108-119.
- [20]Xiang Zhang. Constitutional Dogmatics in Legislation: Also on Communication with Social Science of Law. *China Law Review*, 2021, 96-107.
- [21]Xiang Zhang. The Beneficiary Function of Fundamental Rights and the State’s Duty to Provide: Starting from the Innovation of Fundamental Rights Analytical Framework. *China Legal Science*, 2006, 21-36.
- [22]Zheng Chen. The State’s Duty to Protect Fundamental Rights. *Chinese Journal of Law*, 2008, 51-60.
- [23]Wenyi Huang. On Preventive Rule of Law. *Chinese Journal of Law*, 2024, (46):20-38.