

A Study on the Right of Intergenerational Visitation

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Abstract: Against the backdrop of normalized intergenerational child-rearing in China, the statutory absence of grandparental visitation rights has led to widespread inconsistent adjudications in judicial practice, creating a core contradiction between ethical legitimacy and legal normative gaps. This paper adopts empirical analysis of 100 typical judicial cases, normative interpretation of civil law provisions, and comparative research on institutional systems in Germany and the United States to systematically examine the core disputes and theoretical basis of intergenerational visitation rights. The study finds that the core nature of intergenerational visitation rights is a limited status right under the kinship right framework, and the current judicial dilemma stems from the lack of unified substantive rules and procedural guarantee mechanisms. This paper finally proposes a progressive institutional construction path to realize the organic balance between traditional family ethics and modern civil rule of law in China.

Keywords: Right of Intergenerational Visitation; Kinship Rights; Best Interests of the Child; Public Order and Good Customs; Civil Code of the People's Republic of China

1. Introduction

With profound changes in China's social and family structure and rising population mobility, intergenerational child-rearing has become a mainstream family upbringing model in China [1]. However, the current Civil Code of the People's Republic of China strictly limits the statutory subjects of the visitation right system to parents, leaving the intergenerational visitation rights of grandparents in a state of statutory absence. This institutional gap has directly caused inconsistent judgment standards for intergenerational visitation disputes in judicial practice, undermining the uniformity of law application and judicial authority, while failing to provide stable protection for the legitimate

rights and interests of minors and the elderly. Therefore, a systematic study of the legal basis, practical disputes and institutional construction path of intergenerational visitation rights holds both important theoretical value and practical urgency.

1.1 Problem Statement

In current judicial practice, courts have shown sharply opposing positions in hearing intergenerational visitation disputes, with the core divergence focusing on whether to break through statutory subject restrictions to recognize intergenerational visitation rights. On one hand, some supportive judgments break through the restrictive definition of visitation right subjects in Article 1086 of the Civil Code, invoking the principle of public order and good customs and provisions on the protection of the elderly's spiritual rights and interests, and uphold grandparents' visitation claims on the ground that intergenerational visitation conforms to family ethics of respecting the elderly and caring for the young and minor interest protection. For example, in the case of Su XX and Wang XX v. Zhang XX, the court clearly pointed out that after the grandparents suffered the pain of losing their son, their granddaughter had become their core spiritual sustenance, and granting visitation rights was in line with the legal spirit and social ethics of respecting and caring for the elderly.

On the other hand, negative judgments strictly abide by the literal boundary of statutory law, holding that intergenerational visitation rights lack a clear legal basis as the Civil Code does not include grandparents into the statutory subjects of visitation rights, and reject claims on the ground that visitation may infringe upon parents' statutory guardianship rights or violate minors' genuine will. For instance, in the case of Meng Lingming v. Chen Wenhong, the court rejected the plaintiff's claim on the ground that the 16-year-old minor explicitly refused the visit and was emotionally estranged from the grandparents, and that granting visitation rights

would interfere with his normal study and life. The coexistence of two completely opposite adjudication paths intuitively shows the value swing of judicial organs between "ethical legitimacy demand" and "statutory rule absence" when facing intergenerational visitation disputes. This value swing highlights the lag of current legislation, and determines the irreplaceable theoretical and practical significance of systematically responding to the core proposition of "why intergenerational visitation rights can be established and how they should be exercised in a standardized manner" from theoretical and institutional levels.

1.2 Research Background and Value

The transformation of China's family structure and the popularization of intergenerational upbringing have made the demand for the protection of intergenerational visitation rights increasingly prominent. However, the supply of the current legal system fails to match this social reality, making intergenerational visitation rights an urgent legal issue to be solved in the field of family law. A systematic study on intergenerational visitation rights can realize two-way protection of the legitimate rights and interests of minors and the elderly, and promote the organic integration of traditional family ethics and modern rule of law, with both theoretical and practical dual values.

1.2.1 Tension between family structure changes and legislative absence

Visitation right is the core bond for parents to maintain parent-child affection after divorce. The system was first established when the Marriage Law was amended in 2001, with the core value of protecting the physical and mental health of children from divorced families and soothing the emotional needs of the non-custodial parent. This rule was fully incorporated into Article 1086 of the Civil Code in 2020, forming a systematic normative system of parental visitation rights by clarifying right subjects, assistance obligations and exercise rules.

However, current legislation has never made clear provisions on the intergenerational visitation rights of grandparents. The system was included in the legislative agenda of the Draft Civil Code three times, but ultimately failed to be adopted, with a clear evolutionary trajectory of legislative attitude across the drafting process. [2] In 2018, the first Draft of the Civil Code

stipulated in Article 864 that the provisions on parental visitation rights shall be applied *mutatis mutandis* to grandparental intergenerational visitation, marking the first time the system was written into the draft legislation. In 2019, the second Draft of the Civil Code further refined the applicable conditions for intergenerational visitation in Article 864, specifying that the *mutatis mutandis* application of visitation right provisions shall be permitted only when grandparents have performed the maintenance obligation for their grandchildren, or one of the parents of the grandchildren is deceased. In the same year, the third Draft of the Civil Code completely deleted all relevant clauses on intergenerational visitation rights in Article 1086, and the system was ultimately excluded from the formal Civil Code legislation.

Regarding the reason for the deletion of the clause, the Constitution and Law Committee of the National People's Congress explained: "At present, no consensus has been reached on this issue from all sides, so intergenerational visitation is not stipulated for the time being. If no consensus can be reached through negotiation, it can be resolved through litigation." This statement clearly reflects that the legislature is still in a prudent wait-and-see state on intergenerational visitation rights, and has not yet formed a unified legislative consensus. Its core concern lies in the balance between intergenerational visitation rights and the boundary of parents' statutory guardianship rights. However, in sharp contrast, disputes over intergenerational visitation rights continue to rise against the background of normalized intergenerational upbringing, which has become a typical difficult problem to be solved urgently in China's family trials.

The limitation on the subject of visitation rights in current legislation puts courts in a dual dilemma when handling such disputes: if the court strictly follows statutory rules to reject grandparents' claims, the judgment is easy to be accused of ignoring family emotional bonds, causing public questioning of violating ethics and poor social effect; if it supports intergenerational visitation by breaking through the existing legal framework, it will fall into disputes over the legality of the judgment due to the lack of clear normative support.

Reasonable intergenerational visitation is not only the core bond to maintain family affection between grandparents and grandchildren, but

also an important support for the family education and emotional growth of minors, and an important way to realize spiritual support for the elderly. It is a win-win measure that takes into account the rights and interests of both minors and the elderly. Based on this, it is necessary to conduct a systematic review of China's current visitation right rule system, and then construct an intergenerational visitation right system in line with China's national conditions.

1.2.2 Dual value: balance between emotional support for minors and spiritual support for the elderly

The institutional value of intergenerational visitation rights is reflected in the dual dimensions of the protection of the rights and interests of minors and the elderly, which complement each other and are indispensable.

On one hand, the core value of intergenerational visitation rights is to ensure the healthy growth of minors. The companionship and visitation of grandparents can effectively fill the lack of care for minor children caused by their parents' divorce or the death of one parent, and realize positive growth guidance with the life experience of the elderly, helping minors develop a sound personality. On the other hand, intergenerational visitation is an important way to realize spiritual support for the elderly, which can effectively alleviate the spiritual loneliness of empty-nest elderly and parents who lost their only child, meet their emotional comfort needs, and implement the legislative requirements of spiritual support in the Law on the Protection of the Rights and Interests of the Elderly.

The establishment of the intergenerational visitation right system not only conforms to China's traditional virtue of respecting the elderly and caring for the young, but also can effectively maintain the intergenerational family affection bond. Clarifying the legal boundary of intergenerational visitation rights can properly resolve family affection conflicts, reduce social governance costs, and promote fine family traditions and core socialist values.

1.3 Domestic and Foreign Research Status

1.3.1 Domestic research status

Current domestic academic circles have carried out rich discussions on the institutional construction and judicial application of intergenerational visitation rights, forming two opposing positions of "affirmation theory" and

"negation theory" at the core, along with a large number of empirical analysis results on the practical difficulties of family trials.

The "affirmation theory" for the establishment of intergenerational visitation rights is the mainstream view in academic circles. Scholars such as Li Hongxiang pointed out that China's current visitation right rules are excessively centered on the exercise of rights of divorced parents, which neither fully respects the status of minors as the subject of rights, nor ignores the legitimate family affection demands of close relatives, and is disconnected from China's traditional concept that attaches importance to family kinship ethics. [3] Professor Yang Lixin further put forward that intergenerational visitation conforms to human ethics and social public order, and even if the current law does not make a clear list, judicial organs can confirm its legitimacy in individual case judgments as long as the relevant claims comply with the basic principles of civil law and family ethics requirements.

Zhuang Xulong classified intergenerational visitation rights into three types: subrogation type, agency type and simple divorce type based on the basis of right generation, and clarified that the right belongs to the category of relative right, whose exercise shall not infringe upon others' right to peace and tranquility of life, and shall not be recognized as an absolute right. [4] Gao Yandong, starting from the practical needs of judicial application, put forward a three-dimensional construction path of intergenerational visitation right rules: first, unify judgment standards through the issuance of guiding cases by the Supreme People's Court; second, clearly define the prohibited exceptions of intergenerational visitation rights in written provisions; third, delimit the boundary of right exercise, and clarify that intergenerational visitation shall not interfere with the normal life order of the guardian, so as to improve the operability and standardization of the system. [5] The "negation theory" opposes the inclusion of intergenerational visitation rights into the scope of statutory rights from the perspective of legislative system and right boundary. Pan Runquan put forward that the core demand of intergenerational visitation rights only focuses on the individual emotional needs of grandparents, which conflicts with the core principle of the best interests of the child [6]. At the same time, the demand for family affection

between grandparents and grandchildren belongs to the adjustment scope of moral ethics, and should not be compulsorily regulated by law. Professor Yang Dawen pointed out that China's current visitation right system is specially designed for the maintenance of parent-child relationship of divorced parents, and rashly including intergenerational visitation into the statutory right system will easily lead to many judicial practice difficulties such as conflicts between guardianship rights and visitation rights [7].

In summary, domestic academic circles have carried out in-depth research on the legitimacy basis and judicial application difficulties of intergenerational visitation rights, which has provided a solid theoretical foundation for this paper. However, existing research still has two core gaps: first, most results focus on the debate on the legalization of intergenerational visitation rights, and have not yet formed a unified and accurate academic definition of the legal nature of the right; second, most research is carried out separately around a single dimension of interpretive theory or legislative theory, and fails to build a progressive rule system of "interpretive theory to solve current judicial needs in a fallback manner, and legislative theory to achieve long-term institutional goals". This is exactly the core entry point and innovation direction of this paper.

1.3.2 Foreign research status

Civil law countries represented by Germany and France, and common law countries with the United States as the core sample, have all established relevant systems of intergenerational visitation through statutory law or precedents, whose legislative design and judicial practice results have become core reference objects for domestic academic research.

German law incorporates visitation rights into the right of contact system, and has built a complete statutory rule system with the German Civil Code as the core, always taking the best interests of the child as the supreme principle for the exercise of rights. The Code clearly stipulates that normal contact between minors and their parents falls within the scope of their best interests, and if contact with other close relatives is beneficial to the physical and mental development of minors, such contact right is also protected by law [8]. Grandparents and siblings have the statutory right of contact with minors, and the exercise of this right must take

compliance with the best interests of the child as the statutory premise. At the same time, German law has built a dual guarantee system of entity and procedure: at the substantive level, if parents hinder legitimate contact between grandparents and minors without justifiable reasons, it may constitute abuse of guardianship right; at the procedural level, ADR mechanisms such as mandatory pre-litigation mediation have been established through the Law on Family Proceedings and Non-Contentious Proceedings [9].

France has built a dual institutional system of "civil rights definition + criminal punishment as the bottom line" to provide full-chain legal guarantee for intergenerational visitation rights. The French Civil Code clearly stipulates that minors have the right to maintain a stable personal relationship with their direct senior blood relatives, and the exercise of the right can be restricted only when such contact is detrimental to the core interests of minors. At the same time, the French Penal Code sets rigid constraints for the realization of rights, where guardians who maliciously hinder the exercise of visitation rights will face criminal punishment of imprisonment and high fines, to urge the performance of obligations through strict legal liability.

Each state in the United States has established the "substantial relationship" judgment standard for intergenerational visitation rights through a combination of statutory law and precedents. The core consideration factors include whether a long-term stable intimate relationship has been formed between grandparents and grandchildren, whether the visitation is in the best interests of the child, and whether it infringes upon the parents' guardianship right [10]. Only when the statutory requirements are met can the grandparents' visitation claims be supported.

Combined with the institutional design and judicial practice of the above countries, the following aspects are worthy of reference for the improvement of China's intergenerational visitation right system: first, establish the criterion of the best interests of the child as the core for the exercise of rights; second, build a professional family trial system and a diversified and flexible dispute resolution mechanism; third, build a hierarchical right protection and liability constraint system.

1.4 Research Content and Innovations

This paper focuses on the judicial disputes and system improvement of intergenerational visitation rights, follows the logical context of "problem raising - problem analysis - problem solving", and takes the construction of the ontology system of intergenerational visitation rights as the core research goal. First, through the typological analysis of judicial cases, this paper systematically summarizes the core disputes of intergenerational visitation rights in judicial practice. Second, it deeply analyzes the legal attribute and normative basis of intergenerational visitation rights from the legal level, to provide theoretical support for its institutional construction. Finally, based on the current legal framework, it first provides transitional judgment guidance for judicial practice through the interpretive theory path, and then completes the construction of the ontology system through the legislative theory path, forming a complete normative system covering the right exercise rules and guarantee mechanisms.

The research methods of this paper include: (1) Case Analysis Method: this paper retrieves civil judgments of courts at all levels across the country in recent years, screens out duplicate and irrelevant cases, and finally selects 100 typical cases as empirical analysis samples; (2) Normative Interpretation Method: through civil law interpretation methods such as systematic interpretation and teleological interpretation, this paper interprets the relevant clauses of the Civil Code, fills the rule loopholes of the current law; (3) Comparative Research Method: by comparing the legislation and judicial practice of intergenerational visitation rights in France, Germany and the United States, this paper summarizes the experience of its institutional design, and puts forward a feasible institutional reference path combined with China's national conditions.

The research innovations of this paper are mainly reflected in two aspects: first, at the theoretical level, based on the balance between kinship right theory and judicial practice, this paper puts forward the core positioning that intergenerational visitation right is a limited status right under the framework of kinship right, which clarifies the legal source of the right, defines the boundary of the exercise of the right, and resolves the core opposition of existing theories. Second, at the practical level, this paper innovatively puts forward the institutional

construction scheme of online visitation, clearly includes online visitation methods into the statutory exercise scope of intergenerational visitation rights, clarifies that it has the same legal effect as traditional offline visitation, and refines its applicable scenarios, exercise rules and guarantee mechanisms.

2. Controversies over Grandparental Visitation Rights in Judicial Practice

In judicial practice, the core disputes over intergenerational visitation right disputes are concentrated in three dimensions: whether the right should be judicially supported, the definition of the scope of subjects entitled to exercise the right, and the exercise methods and enforcement guarantee of the right. Under the background of the lack of clear superior legal basis in the current law, the judgment positions of courts across the country show a clear opposition, which has brought great uncertainty to the protection of the legitimate rights and interests of minors and grandparents.

2.1 First Dispute: Whether to Uphold the Grandparental Visitation Right

The core divergence of China's judicial adjudication of intergenerational visitation rights stems from the absence of normative supply in the current law. Article 1086 of the Civil Code continues the framework of the visitation right system established by the Marriage Law in 2001, strictly limits the statutory subjects of visitation rights to the parent who does not directly raise the children after divorce, and adopts a closed subject setting, which does not include grandparents into the normative scope of visitation rights, forming an obvious legal regulation loophole.

Based on the above legislative absence, three completely opposite judgment positions of support, partial support and negation have been formed in judicial practice for intergenerational visitation right claims. Among them, the supporting and negating judgment paths have fundamental differences in argumentation logic, normative basis and value orientation, which further aggravate the adjudication dilemma of such disputes.

2.1.1 Adjudication logic of cases upholding grandparental visitation right

After the implementation of the Civil Code, the core normative basis of the effective judgments supporting intergenerational visitation rights in

judicial practice is concentrated in Article 8 of the Civil Code (the principle of public order and good customs), Article 1043 (the family civilization clause), and Article 18 of the Law on the Protection of the Rights and Interests of the Elderly. From the core reasoning logic of similar case judgments, it can be summarized into three judgment paths:

First, confirm the legitimacy basis of intergenerational visitation with public order and good customs and family ethics as the core basis. As early as 2015, in the first national benchmark case of intergenerational visitation rights heard by the People's Court of Beitang District, Wuxi City, Jiangsu Province, the court took the principle of public order and good customs as the core judgment basis and made a supportive judgment on the grandparents' intergenerational visitation claim.

Second, recognize the positive value of intergenerational visitation for the growth of minors with the best interests of the child as the core yardstick. In the case of Yang XX, Hu XX v. Song XX, the court legally supported the grandparents' visitation claim based on the dual judgment basis of public order and good customs and the principle of the best interests of the child, clearly pointing out that normal exchanges between relatives are conducive to the cultivation of minors' family affection concept and the shaping of sound personality.

Third, take the protection of the spiritual support rights and interests of the elderly as supplementary reasoning, and take into account the legitimate emotional demands of grandparents. In the case of Liu XX v. Wu XX and Feng XX, the grandparents assisted their son and daughter-in-law in raising their granddaughter for a long time. After the son died in an accident, the daughter-in-law refused the grandparents to visit the granddaughter. The court held that even if the current law does not explicitly list intergenerational visitation rights as an independent statutory right, the grandparents' visitation behavior conforms to the principle of public order and good customs, and finally ruled that the grandparents can visit their granddaughter twice a month.

From the judgment logic of such cases, the effective judgments supporting intergenerational visitation rights have formed a complete reasoning logic with the legitimacy of family ethics as the starting point of argument, the protection of minors' interests as the core, and

the basic principles of civil law as the normative bottom line.

2.1.2 Adjudication logic of cases rejecting grandparental visitation right

In judicial practice, the core argumentation logic of the effective judgments rejecting intergenerational visitation claims revolves around the statutory principle of the subject of visitation right, that is, the current civil legislation does not explicitly include grandparents into the scope of statutory subjects of visitation rights, and the intergenerational visitation claims filed by grandparents lack a statutory claim basis. The core reasons for rejecting the claims can be summarized into two categories:

First, strictly abide by the normative boundary of statutory law, and directly reject the claim on the ground that the plaintiff is not an eligible subject. In the case of Li XX v. Yi XX, the court clearly pointed out that the statutory subject of visitation right is only limited to the father or mother who does not directly raise the children after divorce, and grandparents are not eligible subjects of this right, and accordingly rejected the plaintiff's litigation claim.

Second, negate the legitimacy of intergenerational visitation on the core ground that the visitation behavior does not conform to the best interests of the child and violates the genuine will of the minor. In the case of Wei XX, Wang XX, et al., the court found out after trial that the minor had lived with his mother since he was 1 year and 2 months old, and had never been in contact with his grandparents after his father's death, and had formed a stable life and learning environment in his mother's remarried family. The court held that if the grandparents were rashly allowed to visit, it would easily cause a serious impact on his immature mind and damage his physical and mental health, and finally ruled to reject the grandparents' visitation claim.

From the judgment logic of such cases, the effective judgments rejecting intergenerational visitation claims generally form a complete argumentation system with the strict application of statutory law as the logical starting point, the exclusive protection of parents' statutory guardianship rights as the core boundary, and the best interests of the child as the final bottom line yardstick.

2.1.3 Typological analysis of judicial positions

From the judgment documents of similar cases

retrieved in this paper, the court's judicial position on intergenerational visitation right disputes presents a clear phased evolution characteristic. Before and in the early stage of the implementation of the Civil Code, courts generally held a conservative judgment attitude of strictly abiding by statutory law for such cases. In recent years, with the normalization of intergenerational upbringing in China, more and more courts have begun to try to break through the limitation of the subject scope of statutory law, and make effective judgments supporting or partially supporting intergenerational visitation claims that meet specific statutory requirements. However, from the overall judicial practice, because the current legislation has not established a unified application rule for intergenerational visitation rights, the trial of such disputes still lacks a unified substantive normative basis. Even for similar cases with highly similar basic facts and core plots, completely opposite judgment results frequently appear. This phenomenon of different judgments in similar cases certainly includes the judge's value judgment and interest measurement in the trial of individual cases, but its core root still lies in the absence of rules in statutory law.

Further digging into the essence of the divergence of judgment positions, the core lies in the fundamental divergence in the understanding and application of the principle of "the best interests of the child" by different courts. It is precisely because the current law has not formulated specific and operable judgment standards for this principle for the specific scenario of intergenerational visitation rights that the courts have significant differences in the scale of judicial application, which further aggravates the deep dilemma of inconsistent judgment standards for similar cases [11].

2.2 Second Dispute: Definition of the Scope of Subjects Entitled to Exercise the Right

The dispute over the subject scope of intergenerational visitation rights is the extension and concretization of the dispute over the legitimacy of the right. The core divergence focuses on: under what statutory requirements can grandparents become eligible subjects to exercise the intergenerational visitation right. From the perspective of China's current civil legislative framework, neither the original Marriage Law nor the current Civil Code has made explicit authorizing provisions on the

subject of intergenerational visitation rights. This legislative gap directly leads to significant judgment differences in the identification standards of subject qualification in judicial practice.

2.2.1 Adjudication logic supporting the expansion of exercise subjects

Although China's current civil legislation does not include grandparents into the scope of statutory subjects of visitation rights, in judicial trial practice, the judgments supporting the expansion of subjects generally hold that visitation right is a right created based on the parent-child identity relationship and with the protection of minors' interests as the core, and belongs to the derivative power of parental authority. There is a natural direct blood relationship between grandparents and grandchildren, and such identity relationship will not be eliminated due to the dissolution of the minor's parents' marriage. In the vast majority of family scenarios of intergenerational upbringing, grandparents have already assumed the daily care and upbringing obligations for their grandchildren through actual behaviors, and their kinship right formed based on blood relationship and actual upbringing facts should be equally protected by law.

In such judgments, the court's identification of subject qualification focuses on the depth of emotional bond between grandparents and grandchildren and the actual upbringing facts. For example, in the case of Ding XX, Wang XX v. Bai XX heard by the Higher People's Court of Chongqing Municipality, the minor lived with his grandparents since childhood, and the two parties formed a deep and stable emotional bond. Later, the minor settled in Germany with his mother, who refused to cooperate with any form of communication and meeting between the grandparents and grandchildren. The court held that the direct blood relationship between grandparents and grandchildren will not be eliminated due to the dissolution of parents' marriage or the cross-border residence of minors, and the grandparents who have long performed the upbringing and care obligations for their grandchildren should enjoy the legal visitation right.

2.2.2 Adjudication logic advocating restriction on the subjects of the right

The judgments advocating strict limitation on the scope of right subjects focus their core argumentation logic around the statutory nature

and exclusive identity of visitation right. Such judgments hold that visitation right is an exclusive right generated based on the specific parent-child identity relationship between parents and children, and its statutory right subject is only limited to the parent who does not directly raise the children after divorce; grandparents do not have the specific identity elements required by this right, and cannot become eligible subjects of statutory visitation right.

Such judgments also make it clear that even if grandparents have actual upbringing facts, the expansion of the right subject must be set with strict statutory restrictions; especially when there is an irreconcilable contradiction between grandparents and the minor's guardian, and the minor over 8 years old clearly expresses the intention to refuse the visit, the improper expansion of the scope of the subject of visitation right should be strictly prohibited.

2.2.3 Divergence in judicial logic of subject definition

From the judgment results of the sample cases retrieved in this paper, two completely opposite judicial judgment logics of "expansion theory" and "restriction theory" have been formed in the current judicial practice for the definition of the subject scope of intergenerational visitation rights. The core divergence between the two focuses on: whether the right basis of visitation right only comes from the exclusive parental authority of parents, or can be extended to the category of kinship right between close relatives. The parallel application of two opposite judicial logics directly leads to the long-term uncertainty of the subject scope of intergenerational visitation rights. Even if the individual case identification of subject qualification in judicial practice can achieve fairness and justice in individual cases, the lack of unified and clear statutory identification standards not only leads to a wide scale of judges' discretionary power, but also cannot provide the public with stable behavioral expectations and judgment guidelines, which fundamentally aggravates the judicial dilemma of inconsistent judgment standards for similar cases.

2.3 Third Dispute: Exercise Methods and Enforcement Dilemma

The institutional value of intergenerational visitation rights must ultimately be realized through the standardized exercise and effective

enforcement of the right. However, in judicial practice, even if the court has made an effective judgment supporting intergenerational visitation rights, such cases generally face the dual dilemma of unclear judgment standards for exercise methods and difficulty in the implementation of effective judgment content, which directly leads to the failure of the institutional function of intergenerational visitation rights to be truly realized.

2.3.1 Judicial adjudication logic of visitation methods

Based on the judgment content of the sample cases retrieved this time, three mainstream exercise methods of intergenerational visitation rights have been formed in judicial practice. The court will comprehensively determine the specific method, frequency and duration of the visit in combination with the minor's age, life and learning status, the depth of emotional bond between grandparents and grandchildren, the degree of family conflicts between the two parties and other factors.

First, offline visiting-type visitation, that is, grandparents have short-term meetings and exchanges with minors at the agreed time and fixed place, including home visits, accompanying minors to go out for short trips, dining and other forms. This method is suitable for scenarios with young minors, shallow emotional bond between grandparents and grandchildren, and relatively sharp family conflicts between the two parties, and is also the most widely used visitation method in current judicial practice.

Second, offline staying-type visitation, that is, grandparents take the minor away to live together during the agreed period, and send them back to the guardian on time after the visit. This method is only applicable to scenarios where grandparents and grandchildren have a long-term cohabitation experience, deep emotional bond, and the guardian has no justifiable reason to oppose it.

Third, online virtual visitation, that is, realizing the purpose of visitation through Internet methods such as video calls and online interaction, which is a new visitation mode rising in the digital age. This method is mainly suitable for scenarios where grandparents and grandchildren live in different places, settle across borders, and have objective obstacles to offline visitation. It can be used not only as a supplement to offline visitation, but also as an

independent exercise method of visitation right under special circumstances.

2.3.2 Enforcement dilemma of grandparental visitation right

The difficulty in enforcing intergenerational visitation rights is a long-standing chronic problem in China's family trial field. Its core root lies in the fact that this right has a strong personal exclusivity and family affection dependence, and cannot apply the compulsory enforcement rules of property cases at all, resulting in a serious lack of adaptability of the current enforcement system in such cases.

From the perspective of current legal provisions, the Civil Procedure Law has set up a dual guarantee system of civil compulsory punishment and criminal liability for the enforcement of effective judgments. However, in the enforcement practice of intergenerational visitation rights, both types of measures face serious application difficulties. On one hand, criminal liability measures are not practically feasible at all, as criminal sanctions against guardians who refuse to perform the assistance obligation will not only completely tear the already fragile family affection relationship, but also may lead to the realistic dilemma that minors have no one to guard, which is completely contrary to the core principle of the best interests of the child. On the other hand, civil compulsory measures have always been applied with a prudent attitude, as such measures are very easy to intensify the deep-seated contradictions between the two families, completely destroy the possibility of family affection repair, and will cause irreversible negative impact on the long-term and stable exercise of intergenerational visitation rights.

2.3.3 Analysis of practical dilemmas in exercise and enforcement

From the judgment and enforcement of the sample cases, even if the court has made an effective judgment supporting intergenerational visitation rights, the implementation of the right still faces two systematic dilemmas that cannot be completely resolved through individual case judgments:

First, the absence of refined judgment standards for the content of right exercise. The privacy and emotional particularity of family disputes make it difficult for the judge, as a neutral third party, to make a refined judgment on the time, frequency, place and method of the visit that fully adapts to the growth needs of minors and

takes into account the interests of all parties. The final judgment result is either too principled and lacks enforceability, or too rigid to adapt to the dynamic changes in the growth process of minors.

Second, the comprehensive failure of the compulsory guarantee mechanism for the realization of rights. The smooth realization of intergenerational visitation rights is highly dependent on the active cooperation and assistance of legal guardians, and it is impossible to force minors to have emotional interaction with their grandparents through compulsory enforcement. In judicial practice, even if a large number of grandparents have won the effective judgment, they cannot realize the visitation right at all because the guardian refuses to cooperate, maliciously hides the minor, and obstructs the visit in many ways. The effective judgment eventually becomes a "blank paper of law" that cannot be implemented.

2.4 Core Contradictions of Conflicts in Judicial Practice

Through the superficial divergence of judicial judgments, we can dig out the three core contradictions behind intergenerational visitation right disputes, which are also the core crux that must be solved in the institutional construction under the current legislative absence:

First, the normative contradiction between ethical legitimacy and the absence of legal rules. Intergenerational visitation conforms to China's traditional family ethics of "respecting the elderly and caring for the young" and public order and good customs, and has natural social legitimacy and ethical rationality. However, the current Civil Code does not make clear authorizing provisions on the right status of intergenerational visitation rights, resulting in the lack of statutory rule support for the public's ethical demands.

Second, the value contradiction between the best interests of the child and the exclusivity of parental guardianship right. The principle of the best interests of the child requires the protection of minors' legitimate right to obtain diversified family affection support, while the exclusivity of parents' statutory guardianship right emphasizes that guardians have the leading power over minors' life arrangement and educational growth. The current law does not make a clear legal definition of the value priority of the two, which directly leads to the confusion of value judgment

standards in judicial judgments.

Third, the practical contradiction between the demand for multi-dimensional right protection and the vague boundary of right exercise. In intergenerational visitation right disputes, the visitation right of grandparents, the right to healthy growth of minors, the statutory guardianship right of parents and the right to peace and tranquility of life are intertwined and influence each other. However, the current law does not clarify the exercise boundary of each party's rights and the conflict resolution rules, leading to both the abuse of rights and the failure to remedy the damage of legitimate rights and interests in judicial practice.

3. Theoretical Basis and Legal Nature of Grandparental Visitation Rights

To solve the judicial practice dilemma of intergenerational visitation rights, we must return to the origin of jurisprudence and clarify its right source and nature positioning. At present, there are significant theoretical divergences on the right source and nature definition of intergenerational visitation rights in China's civil law academic circles and judicial practice circles, and this theoretical dispute is the deep root of the confusion of judgment basis and inconsistent judgment standards for similar cases in judicial practice.

3.1 Source of the Grandparental Visitation Right

As a special type of status right, the right source of intergenerational visitation right is rooted in the basic principles of marriage and family law and the essential attribute of direct blood relationship, which can be demonstrated from two dimensions: normative basis and jurisprudential logic.

3.1.1 From the perspective of kinship right

The core right basis of intergenerational visitation right is the direct blood relationship between grandparents and grandchildren. This identity bond formed by natural blood determines that there is an inseparable identity interest and family affection demand between the two parties, which is exactly the core protected object of China's kinship right system. From the perspective of the normative system of China's current civil legislation, although the Civil Code does not directly authorize intergenerational visitation rights in a special clause, it has built a systematic normative

support framework for it: first, Article 1045 of the Civil Code clearly includes grandparents and grandchildren into the scope of statutory close relatives, establishing the statutory identity basis of kinship right between the two parties; second, Article 1084 of the Civil Code establishes the basic rule that "the relationship between parents and children shall not be eliminated due to the divorce of parents", whose legislative spirit can be naturally extended to the direct blood relationship between grandparents and grandchildren; third, Article 1074 of the Civil Code clearly stipulates the statutory upbringing and support obligations between grandparents and grandchildren under specific conditions, and based on the principle of consistency of civil rights and obligations, the statutory material upbringing and support obligations can correspondingly extend to the status right of emotional care and visitation contact; fourth, the protection norms on the spiritual support rights and interests of the elderly in the Law on the Protection of the Rights and Interests of the Elderly provide dual support at the ethical and normative levels for intergenerational visitation rights.

The above norms together constitute a complete right source system of intergenerational visitation rights. Its core logic is that the statutory close relative relationship between grandparents and grandchildren determines that the kinship right between the two parties naturally includes the core power of emotional maintenance and family affection care, and intergenerational visitation is exactly the specific realization way of this power.

3.1.2 Conflict and coordination with parental authority

The conflict between intergenerational visitation rights and parental authority is essentially the boundary conflict between the status right of close relatives of the non-custodial party and the exclusive guardianship right of the custodial parents, which is also the core proposition that must be solved in the theoretical construction of intergenerational visitation rights.

From the perspective of fundamental value objectives, the two have inherent homology and consistency. In China's kinship law system, the normative core and core legislative purpose of parental authority have always been centered on the principle of the best interests of the child, rather than creating absolute and exclusive personal control rights of parents over minor

children. In this regard, the judicial confirmation and institutional construction of intergenerational visitation rights are not a negation or erosion of the statutory guardianship right system. On the contrary, it takes the comprehensive protection of minors' family affection rights as the core, and is a functional complement and system improvement of the guardianship right system.

However, from the perspective of right core and exercise logic, there are significant boundary differences between the two: Parental authority is the exclusive right of parents to personal discipline and property protection of minor children based on direct blood relationship, with statutory guardianship right as the core, with distinct exclusivity. The core function of intergenerational visitation right is to maintain the emotional bond between grandparents and grandchildren, which not only meets the emotional comfort needs of the elderly, but also provides diversified emotional support for minors.

The coordination of the conflict between the two must take the principle of the best interests of the child as the highest value yardstick. When the exercise of intergenerational visitation right conflicts with parental authority and guardianship right, the value balance must be carried out with this principle as the core: if intergenerational visitation meets the needs of minors' physical and mental health development, the exercise of guardianship right must make necessary concessions to provide convenience and assistance for intergenerational visitation; if intergenerational visitation may damage the interests of minors or disturb their stable life order, necessary restrictions must be imposed on intergenerational visitation rights.

3.2 Controversy and Positioning of the Nature of the Right

Regarding the nature of intergenerational visitation rights, the theoretical and practical circles have formed a variety of theoretical viewpoints. The core dispute focuses on whether intergenerational visitation right is an accessory power attached to parental authority, or an independent type of kinship right with legal status, as well as how to define its right boundary and exercise rules. Clarifying this issue is the core theoretical premise for the institutional construction of intergenerational visitation rights.

3.2.1 Review of main academic theories

At present, regarding the nature of intergenerational visitation rights, two opposite mainstream viewpoints of kinship right theory and parental authority extension theory have been formed at the core, which correspond to the two judgment logics of supporting and negating intergenerational visitation rights in judicial practice respectively.

The kinship right theory holds that intergenerational visitation right is the statutory content of close relative right, and is the direct embodiment of the identity interests between grandparents and grandchildren. The direct blood kinship right between grandparents and grandchildren will not be eliminated due to the change of parents' marriage relationship or the death of one party. Intergenerational visitation right is exactly the concretization of the "emotional care power" in this kinship right, which has an independent right status independent of parental authority and does not need to be attached to parents' visitation right. This theory provides the core theoretical support for the expansion of the subject scope of intergenerational visitation rights.

The parental authority extension theory holds that intergenerational visitation right is not an independent status right, but a natural extension of parental authority based on blood relationship, and is essentially an accessory power of parental authority. This theory strictly abides by the exclusivity and exclusivity of parental authority and guardianship right, and provides theoretical support for the judgments rejecting intergenerational visitation rights in judicial practice. Its core concern is that independent intergenerational visitation rights will impact the exclusive order of parents' statutory guardianship rights.

On the whole, both theories have inherent limitations: although the kinship right theory endows intergenerational visitation rights with an independent status, it does not clarify the exercise boundary of the right, and cannot resolve the conflict between it and guardianship right at the theoretical level; although the parental authority extension theory strictly abides by the institutional framework of guardianship right, it excessively restricts the legitimate identity interests of grandparents, ignores the diversified family affection needs of minors, and is disconnected from the social reality of the normalization of intergenerational

upbringing.

3.2.2 Positioning as a limited status right

Based on the core dispute of the existing theories, this paper holds that the due nature of intergenerational visitation right is a limited status right under the framework of kinship right. This positioning not only makes up for the inherent defects of the existing two theories, but also conforms to China's current legal system and judicial practice needs. The core connotation of limited status right includes two interrelated levels:

First, the independence of the right: intergenerational visitation right is an independent status right generated between grandparents and grandchildren based on the statutory close relative relationship. Its right source is the close relative right system established by the Civil Code, rather than the accessory power of parental authority. Based on the principle of consistency of rights and obligations, since grandparents and grandchildren bear statutory upbringing and support obligations, they should enjoy the corresponding rights of emotional care and visitation contact. This right has an independent claim basis and does not need to be attached to the parental authority of parents.

Second, the limitation of the right: intergenerational visitation right is not an absolute and boundless inherent right, and its exercise must be subject to strict statutory restrictions, which is also the core difference between it and parental visitation right. This limitation is reflected in three aspects: first, the limitation of subject qualification. Not all grandparents naturally enjoy intergenerational visitation rights, which must be based on the premise that a stable emotional bond has been formed between grandparents and grandchildren, the grandparents have performed the main upbringing and care obligations, or there are special circumstances such as the death of one parent, loss of guardianship capacity. Second, the limitation of right exercise. The exercise mode, frequency and duration of intergenerational visitation right must be based on the premise of not damaging the physical and mental health of minors, not infringing on the statutory guardianship right of parents, and not disturbing the stable life order of minors. Third, the limitation of right effect. Intergenerational visitation right can only provide a claim basis for the right holder in individual cases, and cannot

counteract the reasonable arrangements made by parents based on guardianship right.

The core theoretical value of this positioning is that it not only responds to the ethical legitimacy and right source of intergenerational visitation through the definition of "independent status right", and provides a legal basis for the judiciary to support intergenerational visitation rights; but also clarifies the exercise boundary of the right through the definition of "limitation", resolves the core conflict between intergenerational visitation right and parental guardianship right at the theoretical level, and makes up for the inherent defects of the existing two theories.

3.2.3 Core definition of the nature of the right

The positioning of intergenerational visitation right as a "limited status right" determines that it has the dual legal attributes of right and obligation, which are interdependent and inseparable. This is also the core feature that distinguishes it from general civil rights.

From the perspective of right attribute, intergenerational visitation right is a status right enjoyed by grandparents in accordance with the law based on direct blood relationship. This right originates from the close relative right system of the Civil Code, and is an important way to realize the spiritual support rights and interests of the elderly. From the perspective of obligation attribute, intergenerational visitation right also includes the obligation of emotional care and growth guidance of grandparents to minor grandchildren. This obligation not only originates from the ethical responsibility between direct blood relatives, but also conforms to the core requirements of the principle of the best interests of the child.

Clarifying the dual attributes of intergenerational visitation rights is of core significance to completely get rid of the theoretical misunderstanding of "adult right standard". Only by clarifying its dual attributes can we realize the organic unity of right exercise and obligation performance, improve the theoretical system of intergenerational visitation rights, and respond to the core disputes in academic and practical circles.

3.3 Institutional Investigation in Comparative Law

From the perspective of comparative law, some countries and regions have made mature legislative attempts on intergenerational

visitation rights. Their institutional design and judicial practice experience can provide theoretical reference for China's local institutional construction, among which the relevant rules of the United States and Germany are the most representative.

3.3.1 The "substantial relationship" standard in the united states

The intergenerational visitation right system in the United States is centered on state legislation. Although the rules of each state are different, they all take the principle of the best interests of the child as the core yardstick, and form a unified "substantial relationship" judgment standard, which is also the core theoretical kernel of its institutional design. The legislation of each state in the United States generally requires that grandparents claiming visitation rights must prove that they have a pre-existing, stable intimate upbringing relationship and emotional bond with the minor, that is, the grandparents have long assumed the daily care and upbringing obligations of the minor, lived with the minor and formed a stable emotional dependence.

At the same time, all states take "whether the visitation is in the best interests of the child" as the final judgment standard, comprehensively considering multiple factors such as the genuine will of the minor, the depth of emotional bond between grandparents and the minor, the guardianship will of parents, and the impact of visitation on the minor's life order. The core theoretical enlightenment of the American system to China is that intergenerational visitation right is not a natural right of grandparents. The core premise for the establishment of the right is the substantial emotional bond and upbringing facts formed between grandparents and grandchildren, which is highly consistent with the positioning of "limited status right" proposed in this paper.

3.3.2 The "right of contact" system in germany

German civil law takes the principle of the best interests of the child as the core principle of family law, and has built a systematic "right of contact" system. The German Civil Code divides the right of contact into a dual hierarchy system: first, the natural right of contact of parents to minor children, which can be restricted only when "contact seriously damages the interests of the child"; second, the supplementary right of contact of close relatives such as grandparents and siblings, which is not naturally enjoyed, and

must take "contact conforms to the best interests of the child" as an absolute premise [12].

At the same time, German law has set up a complete procedural guarantee and accountability mechanism for the realization of the right of contact. Parents who refuse to cooperate with the contact without justifiable reasons may constitute abuse of guardianship right, and face civil liability or even the legal consequence of change of guardianship right. The core reference of the German system to China lies in: First, it has established a right hierarchy system of "parents first, close relatives supplement", and clarified the hierarchy difference between parental visitation right and intergenerational visitation right; second, it always takes the best interests of the child as the only core standard for the establishment and exercise of rights; third, through the collaborative design of substantive rules and procedural mechanisms, it not only ensures the realization of rights, but also delimits a clear right boundary.

Based on the experience of extraterritorial systems, the legislation of intergenerational visitation rights in major countries in the world follows three core consensuses: first, taking the best interests of the child as the highest principle and the only core standard for the exercise of rights; second, strictly distinguishing the right hierarchy between parental visitation right and intergenerational visitation right, and clarifying the complementarity and limitation of intergenerational visitation right; third, taking the substantial emotional bond and upbringing facts between grandparents and grandchildren as the core premise for the establishment of the right. These three consensuses have further consolidated the theoretical foundation of the positioning of "limited status right" in this paper.

4. Construction Path of China's Grandparental Visitation Right System

Based on the previous sorting out of judicial practice disputes, deconstruction of theoretical basis and reference of comparative law experience, it has become a realistic rigid demand to build a set of intergenerational visitation right system in line with China's local family structure, taking into account the protection of minors' rights and interests, the spiritual needs of the elderly and the order of parental guardianship right. The institutional construction must strictly follow the progressive

logic of "preemptive fallback via interpretive theory, fundamental construction via legislative theory", and adhere to the organic combination of interpretive theory and legislative theory.

4.1 Convergence with Existing Laws

The institutional construction of intergenerational visitation rights must be anchored in China's current legal system, realize the collaborative linkage with the Law on the Protection of the Rights and Interests of the Elderly and the Law on the Protection of Minors, not only provide normative support for the interpretive theory path, but also build a solid systematic foundation for the legislative theory construction.

4.1.1 Normative convergence with the law on the protection of the rights and interests of the elderly

Article 18 of the Law on the Protection of the Rights and Interests of the Elderly, centered on the protection of the spiritual needs of the elderly, clearly stipulates that family members shall not ignore or snub the elderly. This clause provides an important normative support for the exercise of intergenerational visitation rights, and the two can form a two-way linkage and complementary symbiotic convergence mechanism. First, convergence of normative connotation: intergenerational visitation right is clearly defined as the specific realization path of the "spiritual needs of the elderly" referred to in this clause. Second, convergence of judicial application: in intergenerational visitation right disputes, the court can apply this clause in combination with the principle of public order and good customs and the close relative right clause of the Civil Code, as a supplementary claim basis for intergenerational visitation rights. Third, convergence of right remedy: it is clarified that the elderly can claim the right remedy after the obstruction of visitation rights in accordance with this clause, and request the guardian to perform the assistance obligation.

4.1.2 Systematic integration with the principles of the law on the protection of minors

The principle of "the best interests of the child" established by the Law on the Protection of Minors is the core value yardstick for the construction of the intergenerational visitation right system, which must run through the whole process of the institutional construction. First, at the level of principle leadership: the principle of "the best interests of the child" is taken as the

highest judgment standard for the right identification, exercise mode, boundary delimitation and dispute resolution of intergenerational visitation rights. Second, at the level of judgment application: the specific judgment standards of this principle in intergenerational visitation right disputes are clarified, and the genuine will of minors over 8 years old, the degree of emotional dependence between grandparents and grandchildren, the impact of visitation behavior on the minors' life and study, and the guardianship ability and cooperation attitude of the guardian are taken as the core consideration factors for the court's judgment. Third, at the level of right subject: break through the traditional "adult right standard" thinking, clarify the core subject status of minors in intergenerational visitation rights, and endow minors with corresponding cognitive ability the right to actively apply for visiting grandparents, fully respect their emotional needs and independent choices.

4.2 Path to Improve the Rules: Fallback via Interpretive Theory and Construction via Legislative Theory

In response to the judicial dilemma of inconsistent judgment standards for similar cases of intergenerational visitation right disputes, this chapter strictly abides by the core research method of civil law: only when legal rules are exhausted can legal principles be applied; only when the interpretation space is exhausted can legislative amendment be advocated. With the progressive logic of "fallback via interpretive theory, fundamental construction via legislative theory", this chapter systematically builds the path to improve the rules of intergenerational visitation rights.

4.2.1 Interpretive theory path

The core value of the interpretive theory path is to provide a legal and unified claim basis and judgment standard for individual case judgments of intergenerational visitation rights through standardized legal interpretation technology, without breaking through the explicit provisions of the current law. The application of interpretive theory for intergenerational visitation rights is divided into two levels: First, normative authoritative interpretation, the subject of exercise is the Supreme People's Court. The Supreme People's Court can issue judicial interpretations and release guiding cases to make normative interpretations with universal judicial

binding force on the relevant clauses of the Marriage and Family Book of the Civil Code, unify the judgment standards of intergenerational visitation right disputes.

Second, individual case interpretation and legal development, the subject of exercise is the judge of the case. In the trial of individual cases, the judge can fill the open legal loopholes of the current law through the statutory methods of civil law hermeneutics, and complete the legal development in individual cases. The specific technical logic is: in view of the legal loopholes formed by the Civil Code's failure to explicitly stipulate intergenerational visitation rights, the loophole filling method of teleological expansion is adopted to expand the application of the relevant norms on kinship right, family obligation of respecting the elderly and caring for the young, and protection of direct blood relatives in the Civil Code to the individual case judgment of intergenerational visitation right disputes.

Based on the systematic interpretation of the relevant clauses of the Civil Code, the support of intergenerational visitation rights in individual case judgments must meet the following requirements at the same time: first, the subject requirement: the grandparents claiming the right have a statutory direct blood relationship with the minor; second, the substantive requirement: the grandparents have performed the main upbringing and care obligations for the minor, or have formed a stable emotional dependence with the minor; third, the negative requirement: there is no statutory circumstance that the visit will seriously damage the physical and mental health of the minor; fourth, the core requirement: the visitation behavior conforms to the principle of the best interests of the child.

At the same time, it must be made clear that the interpretive theory path has strict applicable boundaries and inherent limitations, and can only be used as a transitional fallback scheme. It cannot break through the explicit restrictive provisions of Article 1086 of the Civil Code on the subject of visitation rights, and can only achieve individual case fallback through systematic interpretation, and cannot establish the general right status of intergenerational visitation rights at the legal level. For this reason, to fundamentally resolve the judicial and legislative dilemmas of intergenerational visitation rights, it is necessary to complete the institutionalized and systematic construction of

intergenerational visitation rights through the legislative theory path.

4.2.2 Legislative theory proposals

The core legal support for the construction of the intergenerational visitation right system is the Marriage and Family Book of the Civil Code, and the Law on the Protection of Minors and the Law on the Protection of the Rights and Interests of the Elderly are the special laws for supporting and coordinating guarantee. The three form a normative system where the basic law establishes the right ontology and the special laws refine the guarantee.

This paper proposes that the specific foothold of the construction of the intergenerational visitation right system is Section 2 Parent-Child Relationships and Other Close Relative Relationships, Chapter 2 Family Relationships, Book 5 Marriage and Family of the Civil Code. The specific clause position is to add Article 1074-1 after Article 1074 of this section to specifically regulate intergenerational visitation rights. Choosing this position as the institutional foothold can form a complete logical closed loop of "statutory obligation - statutory right" between grandparents and grandchildren, which fully conforms to the normative positioning and legislative logic of this section, and clearly clarifies the right boundary between intergenerational visitation rights and statutory parental visitation rights.

Combined with the previous definition of the nature of the right, disputes in judicial practice and enlightenment from comparative law, the specific institutional design is as follows:

First, clarify the scope of subjects and qualification requirements of intergenerational visitation rights. The subject of intergenerational visitation rights is limited to grandparents, and the obligatory subject is the legal guardian of the minor (mainly parents). It is clarified that grandparents have the right to visit grandchildren under specific conditions, which must meet one of the following substantive requirements: (1) The grandparents have performed the main upbringing and care obligations for the minor, and have formed a long-term stable emotional dependence relationship with the minor; (2) One of the minor's parents is dead, missing, loses civil capacity or has their guardianship revoked, resulting in the minor's lack of complete family affection support; (3) After the parents' divorce, the minor has lived with grandparents for a long

time, and the visit is conducive to maintaining the minor's emotional stability; (4) There is other sufficient evidence to prove that the visitation behavior is in line with the needs of the minor's physical and mental health development.

Second, clarify that the exercise of intergenerational visitation rights must follow four core principles, and delimit the boundary of right exercise: (1) The principle of the best interests of the child, which is the highest value yardstick for the exercise of intergenerational visitation rights, requiring full respect for the genuine will of minors over 8 years old; (2) The principle of no damage to guardianship right, requiring that the exercise of intergenerational visitation rights shall not hinder the normal exercise of guardianship right; (3) The principle of respect for the right to peace and tranquility of life, requiring that the exercise of intergenerational visitation rights must fully respect the peace and tranquility of life and work and rest rules of minors and their guardians; (4) The principle of prohibition of abuse of rights, clarifying the relative suspension and absolute termination of the right according to the seriousness of the circumstances.

4.3 Optimization of Procedure and Enforcement Mechanisms

The previous chapters have completed the core rule construction of the ontology system of intergenerational visitation rights. The procedures and enforcement mechanisms involved in this section are supporting supplementary measures to ensure the implementation of the ontology system of intergenerational visitation rights, which specifically solve the "enforcement difficulty" dilemma put forward in the previous part.

4.3.1 Pre-litigation consultation and mediation procedure

Intergenerational visitation right disputes are family disputes mixed with family affection and ethics. Rigid judgments are very easy to intensify family antagonism and damage intergenerational harmony. Therefore, it is necessary to establish the procedural rule of "negotiation first, mediation first", that is, the exercise of intergenerational visitation rights must first be independently negotiated by the parties on the mode, time, place of the visit and other contents; if the negotiation fails, it must first be mediated by a third-party mediation organization; only if the mediation fails, can a

lawsuit be filed to the court to avoid the intensification of contradictions.

In the mediation link, before the case is filed, the court shall appoint people's mediators and family social workers with experience in family dispute mediation to intervene first, and carry out mediation in combination with the actual situation of the family. During the litigation process, the judge must implement the principle of mediation priority throughout the whole process, and formulate a personalized mediation plan in combination with the family situation of the case, so as to realize the unity of reason, emotion and law.

4.3.2 Hierarchical enforcement measure system

The personal attribute of intergenerational visitation rights determines that its enforcement cannot copy the enforcement mode of property cases. It is necessary to establish a hierarchical enforcement liability mechanism of "flexible guidance first, rigid punishment supplemented" in combination with the characteristics of family disputes, so as to not only maintain legal authority, but also avoid intensifying family conflicts and damaging the interests of minors.

Specifically, for the situation where the person subjected to execution is simply passively uncooperative and does not take the initiative to obstruct the visit, priority shall be given to flexible enforcement measures, focusing on emotional guidance and rule of law publicity. The enforcement judge shall take persuasion and education, family affection guidance, and rule of law publicity as the core, and introduce grassroots organizations such as community neighborhood committees and family social workers to participate in the enforcement mediation and supervision. For the situation where the person subjected to execution actively obstructs or violently resists enforcement, and the admonition is invalid, rigid punishment measures shall be taken step by step to strengthen the legal deterrence. Priority shall be given to the application of "reputation penalty", that is, the person subjected to execution shall be included in the list of persons subject to enforcement for breach of trust, and credit disciplinary measures shall be taken. If the credit disciplinary measures are invalid, compulsory measures such as fines and judicial detention can be taken in accordance with the law. Criminal punishment measures must be applied strictly and prudently, and can only be initiated in accordance with the law when the circumstances

are extremely heinous and meet the constitutive elements of the crime of refusing to execute judgments and orders in the Criminal Law.

4.3.3 Construction path of online visitation

The traditional offline visitation method has obvious limitations due to geographical distance, population mobility and other factors, while the development of mobile Internet technology provides convenient technical support for online visitation. As an important supplement to offline visitation, online virtual visitation can effectively break through geographical restrictions, realize real-time emotional interaction between grandparents and grandchildren, and is an important institutional innovation adapted to the changes of family structure in modern society.

It is suggested that the Supreme People's Court issue judicial interpretations to clarify that online virtual visitation has the same legal effect as offline visitation. The exercise methods of visitation rights include offline physical visitation and online virtual visitation. The parties can choose by agreement, and the court can also give priority to ruling online visitation as a supplement according to the specific circumstances of the case such as geographical obstacles and difficulty in realizing physical visitation.

In specific judicial application, the court can clarify the frequency, duration, communication mode of online virtual visitation in the judgment. If the guardian intentionally cuts off the communication and refuses to cooperate with the online visitation, it shall be regarded as refusing to perform the assistance obligation of the effective judgment, and the court can take disciplinary measures such as admonition and fines in accordance with the law. At the same time, the implementation of online visitation must take into account the physical and mental health of minors, and avoid excessive virtual contact causing interference to their growth. Through the organic combination of online and offline visitation, we will improve the enforcement guarantee system of intergenerational visitation rights and ensure the effective implementation of the right.

5. Conclusion

This paper conducts a systematic study on the judicial dilemma, legal basis, extraterritorial experience and institutional construction of intergenerational visitation rights, and

comprehensively analyzes the core issues and institutional needs of this emerging right claim through empirical analysis, normative interpretation and comparative research methods. The research shows that recognizing and standardizing intergenerational visitation rights is an inevitable choice to respond to the social reality of the normalization of intergenerational upbringing, inherit fine family traditions, and protect the legitimate rights and interests of "the elderly and the young".

From the perspective of judicial practice, through the empirical analysis of 100 cases, this paper finds that the dilemma of inconsistent judgment standards for similar cases of intergenerational visitation rights stems from the contradiction between the closed subject provisions of Article 1086 of the Civil Code and the legitimate demand for intergenerational visitation. Its essence is the three core conflicts of "ethical rationality and the absence of legal rules", "children's interests and guardianship order", and "right protection and exercise boundary", which cannot be fundamentally resolved only by judicial discretion.

From the perspective of the nature of the right, intergenerational visitation right is a "limited status right" under the framework of kinship right, which has dual attributes of right and obligation - the right attribute is reflected in the emotional comfort and spiritual support needs of grandparents, and the obligation attribute is reflected in the emotional care responsibility for minors. Its core value always revolves around the "best interests of the child", which completely gets rid of the misunderstanding of "adult right standard" and highlights the humanistic care of marriage and family law.

Based on the above analysis, China's intergenerational visitation right system needs to build a trinity normative system of "substantive rules - procedural guarantee - enforcement innovation", and the improvement of rules should follow the progressive logic of "transitional fallback via interpretive theory, fundamental solution via legislative theory": first, at the interpretive theory level, the systematic interpretation and teleological interpretation of the relevant clauses of the Civil Code can provide a unified judgment standard for individual judicial cases within the framework of the current law; second, at the legislative theory level, a special clause can be added after Article 1074 under Section 2, Chapter 2, Book 5

Marriage and Family of the Civil Code, to clarify the kinship right attribute of intergenerational visitation rights and refine the substantive and formal requirements of the right subject; third, at the supporting mechanism level, supporting mechanisms such as pre-litigation mediation, hierarchical enforcement, and online visitation are necessary supports to ensure the implementation of intergenerational visitation rights.

In summary, the improvement of the intergenerational visitation right system is an inevitable choice to respond to the needs of social reality. Through the trinity construction of "judicial transition (interpretive theory) - institutional fundamentals (legislative theory) - implementation guarantee (procedure and enforcement)", it can not only resolve the current judicial chaos, but also build a long-term and stable right protection system, realize the organic balance between traditional ethics and modern rule of law, and take into account the legitimate rights and interests of minors, the elderly and parents.

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