Protection and Realization of Universal Human Rights for the Elderly in the Process of Common Prosperity: A Human Rights Perspective on Socialized Elderly Care Services

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Abstract: *Against the backdrop of solidly promoting common prosperity, ensuring universal human rights for the elderly and transforming elderly care services from a "basic safeguard" model to a model accessible to all have become key issues in addressing population aging. Common prosperity and the protection of elderly care rights share intrinsic value consistency, and the socialization of elderly care services is an important pathway for sharing development outcomes. China's elderly care services currently feature a tripartite supply structure consisting of government provision as a basic safeguard, for-profit market provision, and universal social provision. Government provision is prone to inadequacy, and the market finds it difficult to balance efficiency with equity. With their non-profit and public-interest nature, social actors have become a key vehicle for ensuring universal human rights for the elderly. From a jurisprudential perspective, the state has a constitutional obligation to safeguard the right to elderly care, while society also bears corresponding responsibilities. The two should establish a coordinated governance mechanism based on the principle of subsidiarity. Socialized elderly care services can be improved in quality and expanded in coverage through such privatization pathways as the private operation of publicly built facilities, government support for privately run facilities, and government procurement of services. Meanwhile, the rule of law should be strengthened to improve systems for market access, support, regulation, and performance evaluation, reinforce the government's regulatory responsibilities and the functions of social actors, facilitate the transformation of the right to elderly care from a statutory right into a right enjoyed in practice, and provide solid support for the free and all-round development of older persons.*

Keywords: universal human rights ♦ socialized elderly care ♦ common prosperity ♦ tripartite supply structure ♦ privatization

The realization of common prosperity is a process featuring prosperity for all people, prosperity in all respects, gradual advancement and joint construction, reflecting the people-centered philosophy of development. Common prosperity is not just an economic issue but also a social one. It shares value identity with universal human rights, with the inherent purpose of seeking a better life for the people. In the context of common prosperity, all people are entitled to the basic right to subsistence,

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as well as universal human rights for materializing the free and all-round development of individuals. General Secretary Xi Jinping stressed: "We integrate the principle of the universality of human rights with China's realities. We advance the development of human rights based on China's national conditions and the people's aspirations, and ensure that the people enjoy extensive, full, genuine, concrete, effective and workable human rights in accordance with the law."[1] At present, population aging is one of the basic national conditions of China. General Secretary Xi Jinping pointed out: "Whether a society is happy depends largely on whether its elderly people live happy lives."[2] The guarantee of elderly care rights for the elderly group constitutes an important mission of contemporary human rights. An aging society has a rigid demand for elderly care services. High-quality universally accessible elderly care has become an intrinsic requirement for realizing common prosperity and protecting the elderly's right to elderly care, and is also an external manifestation of the concepts of "active aging" and "healthy aging." Nonetheless, imbalance and mismatch between the supply and demand of elderly care services are problems urgently needing to be solved in China's current elderly care system. The elderly care services provided by the government and the market suffer from "biased coverage" and "benefit omissions," leaving ordinary elderly people genuinely unable to share the fruits of social development in tandem with social progress. To improve the tiered and diversified nature of elderly care services, within the existing legal and institutional framework, this paper mainly explores how to introduce social organizations represented by social-service institutions through the rule-of-law approach to deliver supplementary and auxiliary supply for universal elderly care services to ease the tension between the universal and diversified demands for elderly care services and the supply capacity of the government and the market. This forms the core research proposition of this paper on guaranteeing socialized elderly care services.

I. Value Consistency Between Common Prosperity and the Protection of Universal Human Rights for the Elderly

A. Value isomorphism of common prosperity and protection of universal human rights for the elderly

General Secretary Xi Jinping stressed: "Human rights are not privileges enjoyed by some or a handful of people, but universal human rights for the broad masses of the people. We protect the people's democratic rights, fully stimulate the enthusiasm, initiative and creativity of the broad masses of the people, and enable the people to be the principal participants, promoters and beneficiaries of the development of human rights. We will effectively advance well-rounded human development and achieve more notable and substantive progress in common prosperity for all the people."[3] For this purpose, the realization of common prosperity hinges not only on establishing a high-level socialist market economic system and promoting coordinated regional development, but also on protecting universal human rights and advancing the well-rounded development of individuals.

Universal human rights refer to fundamental human rights universally and equally enjoyed by

[1] Xi Jinping, "Steadfastly Following the Chinese Path to Promote Further Progress in Human Rights," *Qiushi* 12 (2022): 7.
[2] Institute of Party History and Literature of the CPC Central Committee, *A Compilation of Excerpts from Discourses by Xi Jinping* (Beijing: Central Party Literature Press, 2025), 41.
[3] Xi Jinping, "Steadfastly Following the Chinese Path to Promote Further Progress in Human Rights," *Qiushi* 12 (2022): 7.

all people regardless of differences in social stratum, region, identity, and other factors. Universal human rights have two-fold dimensions. At the ought-to-be level, they are grounded in rights confirmed by the *Constitution* and laws, representing institutional commitments to equal dignity and free development. At the factual level, specific institutional arrangements and the supply of public services are required to transform rights from their de jure ought-to-be status into factual enjoyment. Against this backdrop, human rights demonstrate marked relativity and particularity in concrete practice, constrained by factors such as human rights implementation approaches, guarantee instruments, development levels and institutional models across different countries and regions.[4] Therefore, the realization of human rights must be deeply rooted in the specific national conditions and practical realities of each country.[5] Population ageing will remain a basic national condition of China for the present and a long period to come. According to the *Statistical Communiqué of the People's Republic of China on the 2025 National Economic and Social Development*, by the end of 2025, China's population aged 60 and above had reached 323.38 million, accounting for 23.0 percent of the total population. Of this group, the population aged 65 and above stood at 223.65 million, taking up 15.9 percent of the total population,[6] and China has entered a moderately ageing society.[7] Society is confronted with a trend of advanced ageing, featuring the co-existence of population ageing and declining birth rates. "Ageing before affluence" and "ageing without adequate preparation" have aggravated the social dependency burden. To address population ageing, more than 30 special policy documents concerning elderly-related issues were issued at the national level merely in 2025.[8] In the pursuit of realizing common prosperity, alleviating the socio-economic strains generated by population ageing and protecting the elderly's basic right to elderly care have become a necessary prerequisite for meeting the people's rising needs for a better life and enhancing their sense of gain, happiness and security throughout the whole life cycle. Protecting universal human rights for the elderly represents the concrete manifestation of common prosperity within the elderly population.

Owing to age-related declines in physical capacity, the elderly often withdraw from the labor market and constitute a population that is disadvantaged physiologically, psychologically, and economically. Special institutional guarantees for the elderly contribute to the realization of universal human rights and social justice. Article 25 of the *Universal Declaration of Human Rights* stipulates that everyone has the right to security in the event of old age and loss of the capacity to earn a livelihood.[9] The *United Nations Principles for Older Persons* sets forth principles concerning the protection of the human rights of older persons, covering independence, participation, care, self-fulfillment and dignity.[10] *The Law on the Protection of the Rights and Interests of the Elderly of China*

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[4] Mao Junxiang, "On the Relativity of the Universality of Human Rights," *Social Sciences in China* 1 (2025): 141.
[5] Liu Han, "On the Relative Universality of Human Rights: A Three-dimensional Perspective of Concept, Notion and Law," *Human Rights* 5 (2025): 104.
[6] National Bureau of Statistics of China, "Statistical Communiqué of the People's Republic of China on the 2025 National Economic and Social Development," National Bureau of Statistics official website, accessed March 26, 2026, https://www.stats.gov.cn/sj/zxfbhjd/202602/t20260228_1962662.html.
[7] Lu Zhiyuan, Improving the Level of Civil-affairs Work in Serving People's Livelihood, *Qiushi* 4 (2026): 32.
[8] Zhang Ting, Building an Age-friendly Society and Unleashing Momentum for the Silver-hair Era — A Review of Elderly Care Work in 2025, *China Society News*, December 24, 2025, 1.
[9] UN General Assembly, *Universal Declaration of Human Rights* § 25, A/RES/217 (III) (December 10, 1948), accessed March 26, 2026, https: //www. un. org/en/about-us/universal-declaration-of-human-rights.
[10] UN General Assembly, Principles for Older Persons, A/RES/46/91 (December 16, 1991), accessed March 26, 2026, https: //www. ohchr. org/en/instruments-mechanisms/instruments/united-nations-principles-older-persons.

incorporates the universal values of human rights. It stipulates that the state and society shall take measures to improve various systems for protecting the rights and interests of the elderly, gradually improve conditions for safeguarding the elderly's livelihood, health, safety and participation in social development, and materialize the goals of ensuring the elderly are provided for, receive medical care, can make contributions, pursue learning and enjoy themselves in their old age. The *National Human Rights Action Plan of China (2026-2030)* sets it as an important objective for thoroughly implementing the national strategy of actively responding to population ageing to enable the elderly to share the fruits of development and enjoy a happy old age. It regards optimizing the supply of basic elderly care services and vigorously supporting the development of subsistence guarantee and universally supported elderly care institutions as important approaches to protecting the rights and interests of the elderly.

In the system of fundamental human rights enjoyed by citizens, the elderly's right to elderly care is undoubtedly included. In nature, it is a social welfare-oriented right that cannot be deprived or restricted.[11] The right to elderly care constitutes a bundle of rights with an extensive scope of coverage concerning the basic subsistence guarantee for elderly individuals, the supply of basic elderly care services, and access to the fruits of social development. Without adequate protection for the right to elderly care, universal human rights for the elderly would be deprived of their most fundamental material support. In the course of advancing Chinese modernization, protecting the right to elderly care and realizing common prosperity are closely logically interconnected. Raising the issue of protecting the elderly's right to elderly care at the development stage of common prosperity is not only an inevitable outcome when productive forces advance to a certain stage, but also a practical choice to uphold the people-centered development philosophy, protect universal human rights and improve people's well-being.

The role of protecting the right to elderly care in advancing common prosperity manifests itself in two respects. On the one hand, through subsistence-guarantee institutional arrangements such as assistance and support, it meets the service needs of special groups, including the elderly without family support. On the other hand, based on the principle of inclusiveness and universality, it provides high-quality elderly care services characterized by balance and accessibility for all elderly people.[12] Under the ideal scenario of common prosperity, it is imperative to guarantee all elderly people's right to subsistence and right to development, gradually improve conditions for their livelihood, health, safety and participation in social development, narrow distribution gaps and adjust intergenerational distribution, grant the elderly the right to make independent choices regarding elderly care arrangements, and prevent social inequalities from further widening in old age.

B. Human rights implication of socialized and universalized elderly care services

China's traditional mode of elderly care mainly relies on family-based supply. Nevertheless, alongside population ageing, declining birth rates and shrinking household size, as well as shifts in modern lifestyles and elderly care perceptions, family care-giving capacity has been gradually

[11] Wang Han, "On the Choice of China's Elderly Care Models from the Perspective of the Realization of the Right to Elderly Care," *Theory Monthly* 12 (2018): 173.
[12] Zhang Yi et al., *Zhejiang's Exploration of Common Prosperity and the Construction of the Elderly Care Security System* (Beijing: China Social Sciences Press, 2024), 183.

weakening. To compensate for the inadequacy of family-based elderly care, social elderly care service models such as home-based care, community-based care and institutional care have emerged. Elderly care services have thus been transformed from "private" supply into "public" services, and the responsibilities and obligations for protecting the elderly's right to elderly care are increasingly socialized. In the course of realizing common prosperity, establishing a socialized elderly care service system serves not merely to satisfy the subsistence right demands of part of the elderly population. It is directly tied to the requirement of universal human rights for all people to achieve free and well-rounded development. Furthermore, it functions as the primary institutional vehicle for realizing universal human rights for the elderly, bearing implications for social stability and sustainable development.

The coupling path between the development of the socialist market economy and the construction of public elderly care services has become the focus for the protection of universal human rights for the elderly under the goal of common prosperity. Though the governance system for common prosperity takes the institutional driving force of the socialist state as its core guarantee, its sources of motivation feature marked diversity. The state, the market, social organizations and individual citizens constitute respective sources of strength.[13] Accordingly, socialized elderly care services under common prosperity have been incorporated into the scope of public services and evolved into an important social welfare mechanism featuring "government leadership and multi-party participation." The public elderly care service system serves as a critical channel through which the people share the fruits of social development. The fulfillment of elderly care needs can no longer be met by a single actor; instead, it relies on welfare supply by multiple stakeholders. A collaborative welfare mechanism combining family support, state-supplied public goods and social assistance has taken shape, establishing a pattern of co-governance over welfare that covers both the material living and spiritual needs of the elderly.

Given the growing demand for socialized elderly care services, the formation and development of inclusive universal elderly care services have gained practical impetus. The *Report to the 20th National Congress of the Communist Party of China* states: "We will improve the system of basic public services, raise the standard of public services, enhance their balance and accessibility, and make solid progress in achieving common prosperity." It also notes: "We will implement the national strategy for actively responding to population ageing, develop elderly care programs and the elderly care industry, improve services for widowed and childless elderly people, and work to ensure that all elderly people have access to basic elderly care services." During the 14th Five-Year Plan period, the state proposed to vigorously develop inclusive universal elderly care services from the strategic perspective of actively responding to population ageing. Accordingly, in advancing common prosperity, China's social-welfare mechanism is gradually evolving along the path of "subsistence-guarantee-oriented → gap-filling → universal-oriented." It represents an in-depth shift from "caring for the vulnerable" to "universal coverage for all people."[14] Emphasis is placed on promoting equal access to basic elderly care services, actively expanding the target groups and service scope of elderly care services, so that the elderly can obtain conveniently accessible and broadly equal elderly care services. Universal-oriented elderly care services

[13] Yu Jianxing and Liu Tao, "Beyond the Developmental-State and Welfare-State: A Governance System for Common Prosperity," *CASS Journal of Political Science* 5 (2022): 11.
[14] Zheng Gongcheng, "Social Welfare Service Reform and Development Strategies in China: From Protection of the Weak to Universal Protection of All Citizens," *Journal of Renmin University of China* 2 (2011): 47.

mark a shift from a "needs-based" approach to a "rights-based" approach. Instead of regarding the elderly as passive recipients, they recognize older persons' entitlement to equal opportunities and the right to manage all aspects of life as they age.[15]

Universal elderly care services embody the development philosophy of "for all people" and "shared benefits" inherent to common prosperity. They provide the elderly equal opportunities to access services, enable the elderly population to share the achievements of social development, and realize their basic right to elderly care. The "universal" in universal elderly care services denotes universality and accessibility. First, it features broad population coverage. Target groups are no longer confined to the destitute elderly or high-income elderly groups. Instead, large numbers of ordinary elderly people — who fall outside subsistence guarantees yet cannot afford high-end elderly care — are brought into service coverage, granting all elderly people opportunities to enjoy equal elderly care services. Second, multi-tiered elderly care services are available for selection to satisfy the different service demands of the elderly at different levels. These include basic livelihood needs for the realization of the right to subsistence, as well as diversified, high-quality, and personalized needs for exercising the right to development at higher levels. Third, service providers are diversified. Universal elderly care services emphasize joint progress, fostering coordinated efforts between the government and social actors to collectively push forward the development of elderly care programs and the elderly care industry. The "universal" in universal elderly care services stands for affordability and availability. The vast majority of ordinary elderly people have relatively limited income, and their capacity to pay for elderly care services is therefore correspondingly constrained. Through government support, extensive participation of social forces and improved third-party distribution, universal elderly care services deliver reasonably priced and cost-affordable elderly care services for the general elderly population, and meet their multi-level elderly care demands with cost-effective service offerings.

In short, guided by the values of universal human rights, specific institutional objectives for universal elderly care services are formulated. On the basis of these objectives, operable socialized elderly care supply mechanisms are established to ultimately realize the implementation of universal human rights for the elderly. Nevertheless, it must be recognized that the development of the universal elderly care service system and socialized elderly care supply mechanisms constitutes a systematic and long-term welfare undertaking. Progress should be made gradually and kept in line with the general affluence level of society. Therefore, full prudence shall be exercised in assessing the acceptability and affordability on the supply side. Meanwhile, research shall be conducted on the accessibility and availability on the demand side, to effectively avert risks such as insufficient, excessive, or misallocated input of public-service resources,[16] and avoid sliding toward the extremes of "over-generalized welfare" and "anti-welfare."

II. Practical Human Rights Logic behind Multi-actor Supply of Socialized Elderly Care Services

[15] Li Changyuan, "Theoretical Implications and Promotion Paths of Universal Elderly Care Services under the Goal of Common Prosperity," *Ningxia Social Sciences* 6 (2023): 131.
[16] Weng Lie'en, "Theoretical Framework and Realization Paths for the Equalization of China's Basic Public Services," *Social Sciences in China* 5 (2025): 68.

A. Government supply: subsistence guarantee protection grounded in the right to subsistence at the baseline

Since the 1980s, the Chinese government has gradually transformed from an economy-oriented government to a service-oriented government. The *Outline for Promoting Law-based Administration in an All-round Way* issued in 2004 established the basic functions of the government in economic regulation, market supervision, social administration, and public services. Among them, the public-service function requires the state and society to adopt measures to improve the social security system, develop public-welfare programs, effectively handle people's livelihood issues, and reflect the people-centered development philosophy. The *Opinions of the CPC Central Committee on Deepening the Reform of the Administrative System* further proposed to advance the equalization of basic public services and build a fair, universal and sustainable public-service system, marking that the focus of government functions has extended toward the field of social services.

Public elderly care institutions constitute a vital vehicle for enhancing the balance and accessibility of basic elderly care services.[17] Pursuant to Article 5 of the *Law on the Protection of the Rights and Interests of the Elderly of China*, China has established a social elderly care service system based on home-based care, supported by community-based services and backed by institutional care. As an important component of this system, public elderly care institutions are generally set up by the state or with state-owned assets. They are public-institution-affiliated entities undertaking public-welfare-oriented elderly care functions. The *Opinions of the CPC Central Committee and the State Council on Deepening the Reform and Development of Elderly Care Services* clarifies that "subsistence guarantee elderly care facilities shall be mainly constructed and provided by the state in accordance with planning." At the current stage, public elderly care institutions play a pivotal role in delivering professional services for older persons with long-term care needs such as persons with disabilities and those advanced in years. They serve as important material carriers for the state to fulfill its obligation to protect the elderly's basic right to subsistence. While upholding their core subsistence-guarantee function, public elderly care institutions are gradually opening their surplus beds to the public, expanding the supply of inclusive elderly care services, and driving the extension of elderly care services from special-group-oriented assistance to the protection of universal human rights for the elderly.[18]

Although the government shoulders statutory duties to provide public goods, its supply behavior can neither achieve nor make it possible to improve social welfare. Article 41 of the *Law on the Protection of the Rights and Interests of the Elderly of China* stipulates that "elderly care institutions established through government investment shall prioritize meeting the service needs of the elderly in financial hardship who are widowed, childless, with disabilities, or advanced-aged." While clarifying the government's subsistence guarantee responsibility, this institutional design also defines the specific service boundary of public elderly care institutions. Examined from the perspective of government failure theory, this supply reflects the median voter orientation of government supply. Given limited

[17] Xie Jinfang, "Optimization of the Living Space of Public-Run Elderly Care Institutions from the Perspective of Organizational Ecology: A Comparative Analysis Based on Cases in Zhejiang Province," *Population and Society* 5 (2025): 102.
[18] *Notice by the National Development and Reform Commission and Other Departments of Issuing the Measures for Promoting the High-quality Development of Universal Elderly Care Services* (Development and Institutional Reform Document〔2025〕No. 211).

public resources, the government restricts service recipients to specific vulnerable groups such as "the widowed, childless, and elderly persons with disabilities or advanced age in financial hardship," which essentially constitutes an institutional screening of diverse social elderly care demands. Consequently, the needs of elderly people whose preferences exceed such criteria (e.g., demands for higher-quality services) or deviate from them (e.g., non-poor elderly with special care-giving needs) are excluded from the scope of public-service supply. The structural imbalance in public supply is a typical manifestation of government failure in the field of socialized elderly care services.[19] When performing its statutory subsistence guarantee duties, constrained by budget limits and institutional positioning, the government can hardly respond to the increasingly differentiated and diverse elderly care service demands across society. As a result, the allocation of public resources fails to precisely serve the noble goal of maximizing social welfare. Furthermore, the protection of universal human rights for the elderly is by no means merely passive assistance for basic subsistence interests; it should also embody the safeguarding of human dignity.[20]

On multiple occasions, General Secretary Xi Jinping has pointed out that in advancing people's wellbeing initiatives, the government should do everything within its capacity while acting in light of national conditions. "The government's primary role is to guarantee basic needs. It should refrain from making excessive and over-ambitious commitments, and prioritize targeted livelihood support work offering timely assistance to those in greatest need."[21] "We should give better play to the role of social security as a social stabilizer, prioritize subsistence-guarantee work, and safeguard people's basic livelihood and basic public services."[22] To avert heavy fiscal burdens and the welfare trap, the government shall rationally determine the quantity and intensity level of resource input based on cost-benefit projections for public-service resource allocation.[23] At present, the operation of public elderly care institutions reveals the following problems. First, imperfect management systems and operational mechanisms constrain their service efficiency and organizational vitality. Second, heavy reliance on fiscal support and continuously increasing operating costs aggravate fiscal pressure on local governments. Third, shaped by the traditional public-service supply model, public preference for public elderly care institutions further increases their operational burden. To eradicate the above-mentioned problems, Zhejiang Province has continuously promoted the public-built-private-operated model and the transformation of public elderly care institutions into state-owned enterprises, while reinforcing their public-welfare nature and subsistence-guarantee function. This reform pursues the objectives of "guaranteeing basic needs, stimulating vitality, improving services and strengthening the industry."[24]

B. Market-led supply: the absence of balanced human rights under the constraint of efficiency-oriented logic

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[19] Jin Jinping, "Why Does It Have to Be Non-profit? Provision of Social Public Services in the Case of Contract Failure," *Chinese Social Security Review* 1 (2018): 92.
[20] Chen Jinzhao and Liu Lei, "A Probe into the Human Rights Significance of the Rule of Law for the Aging," *Journal of Nantong University (Social Science Edition)* 4 (2023): 80.
[21] Institute of Party History and Literature of the CPC Central Committee, *A Compilation of Excerpts from Discourses by Xi Jinping*, 20.
[22] Ibid., 22.
[23] Institute of Party History and Literature of the CPC Central Committee, *A Compilation of Excerpts from Discourses by Xi Jinping*, 67.
[24] *Working Guidelines for the Pilot Reform of State-Owned-Enterprise Transformation of Public-Run Elderly Care Institutions in Zhejiang Province.*

For-profit private elderly care institutions refer to profit-oriented elderly care service entities registered with market regulation authorities and fall within the category of market actors. Since the reform and opening-up, organizational forms such as companies and partnerships have gradually obtained legal recognition, and the market sector has been institutionally established. Commercial laws, including the *Company Law of the People's Republic of China* and the *Partnership Enterprise Law of the People's Republic of China,* further grant legal status to market actors, laying an institutional foundation for the development of for-profit private elderly care institutions.

Although market-based organizations take profit-making as their primary objective, their participation in public-service supply enjoys theoretical feasibility and practical room for implementation.[25] Influenced by the New Public Management theory, market mechanisms have been gradually introduced into many public services traditionally provided by the government.[26] Relevant studies point out that the private sector, equipped with strong incentive and competition mechanisms, helps improve the efficiency, quality and responsiveness of public-service supply. The government may entrust part of public-service delivery to market actors through market-oriented approaches such as contracting-out, public-private cooperation and government purchase of services, which has become an important policy instrument for the transformation of public governance. General Secretary Xi Jinping has repeatedly called for vigorous development of the silver-hair economy, stating that "we will support the large-scale, standardized, clustered and brand-based development of the elderly care industry, and foster high-end, sophisticated products and high-quality service models."[27] The *Opinions of the CPC Central Committee and the State Council on Deepening the Reform and Development of Elderly Care Services* states that "we shall fully stimulate market vitality and support various market actors to actively participate in elderly care services in accordance with market-oriented principles." The *Several Measures on Cultivating Elderly Care Business Entities and Promoting Silver Economy* further puts forward that "we shall fully energize various elderly care service operators, foster a sound environment for investment and entrepreneurship, boost the development of the silver-hair economy, and better meet the multi-level and diverse service demands of the elderly." Article 52 of the *Law on the Protection of the Rights and Interests of the Elderly of China* also explicitly stipulates that "the state shall give support and guidance to enterprises in developing, producing and operating articles suitable for the elderly and providing relevant services." This legislative supply affirms the positive role of the market sector in the development of the elderly care industry. Market-oriented approaches help satisfy the human rights-related demands of the elderly for all-round development. As an example, Zhejiang Province actively fosters new quality productive forces in the elderly care sector. Following the "1+5+N" layout featuring one core zone plus multiple sub-zones, Zhejiang advances the construction of industrial clusters for high-quality development of the silver-hair economy. By building one core park, it focuses on five major industrial tracks: intelligent rehabilitation assistive devices, smart elderly care services, life-health industries, cognitive-enhancement products for the elderly, and silver-oriented fashion industries. It

[25] Jin Jinping, "On the Choice of Organizational Forms for the Supply of Basic Public Services: Also on the Normative Significance of the Classification of For-profit and Non-profit Legal Persons," *Contemporary Law Review* 4 (2018): 13.
[26] Hu Minjie, *Essentials of Public Law and Policy Research* (Beijing: Law Press • China, 2026), 61.
[27] Institute of Party History and Literature of the CPC Central Committee, *A Compilation of Excerpts from Discourses by Xi Jinping*, 42.

delivers diversified services for the elderly population and unlocks the consumption potential of elderly care services.[28]

Nevertheless, it should be recognized that while market mechanisms can effectively improve economic efficiency, they cannot fully resolve social equity issues, still less automatically and voluntarily advance toward common prosperity.[29] Market-oriented supply of elderly care services is subject to the dual constraints of contract failure and market failure. Excessive marketization may leave the elderly unable to obtain balanced elderly care security services.

First, according to the contract-failure theory, market mechanisms cannot avoid their inherent failure risks in the supply of elderly care services, thereby revealing their intrinsic functional limitations. The effective operation of market mechanisms does not come about spontaneously without prerequisites; instead, it must be embedded within a set of supporting institutional arrangements. For market actors to deliver services aimed at maximizing social welfare, the precondition lies in the institutional guarantee of consumer sovereignty throughout the whole transaction cycle. This calls for establishing a full-chain consumer-rights-protection system covering pre-transaction comparison, in-transaction negotiation, and post-transaction remedy. Specifically, pre-transaction measures such as information-disclosure institutions shall reduce consumers' information-search costs; during transactions, equal status and party autonomy of both contracting parties shall be ensured; after transactions, sound dispute-resolution mechanisms shall underpin contract performance. Whether the above-mentioned institutional framework is complete directly determines whether market competition can genuinely exert its fundamental role in optimizing resource allocation. Only on this basis can the competition mechanism within the market function effectively.[30] According to contract failure theory, the elderly care service market is marked by a typical separation between contracting parties and service consumers. Under such circumstances, even after a service contract is concluded, the contracting party (often the elderly person's family members) can hardly effectively supervise and evaluate the service provider's performance of contractual obligations. When market competition malfunctions, the binding force of the contract itself against the provider's opportunistic conduct will be significantly weakened. In such cases, service providers tend to adopt strategic behaviors of "passing off inferior goods as quality ones" to pursue excess profits. An extreme manifestation of such conduct is continuous cost-cutting, which is reflected in the constant reduction of manpower input, especially the staffing of professional care-giving personnel. The ultimate consequence is not only that the elderly fail to receive due quality services, but also that they may become vulnerable groups subject to neglect or even maltreatment, falling into a humanitarian predicament.

Second, the theory of market failure has long profoundly revealed the inherent functional limitations of market mechanisms in the supply of elderly care services. According to market-failure theory, one intrinsic flaw of market mechanisms lies in their inability to efficiently supply public goods. Due to the non-excludable and non-rival characteristics of public goods, free-riding behavior tends to emerge.

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[28] Zhejiang Provincial Development and Reform Commission. Four Experience Practices of Zhejiang Province Selected as National Typical Cases of Silver-hair Economy Development in 2025, WeChat Official Account "Zhejiang Development and Reform," accessed March 26, 2026, https: //mp. weixin.qq.com/s/r3IDpBSATmnDuuHDmCFXDw.

[29] Zheng Gongcheng, "The Logical Relationship between Common Prosperity and Social Security, and the Construction of a Welfare China," *Chinese Social Security Review* 1 (2022): 5.

[30] Jin Jinping, "Regulating by Classification and Constructing a Reasonable Supply Mechanism for Elderly Care Services," *China Journal of Social Work* 35 (2023): 30-31.

Consequently, market mechanisms struggle to incorporate the production of public goods into their price system, leading to deviations from Pareto optimality in resource allocation and resulting in efficiency losses. Elderly care services feature strong positive externalities and public-welfare attributes. Total reliance on the market will inevitably hinder optimal resource allocation and equitable service supply. Meanwhile, demand for elderly care services in China objectively exists and keeps growing. Nevertheless, constrained by consumption concepts and affordability, the elderly population has limited capacity to pay for needed services. This dampens producers' incentives and gives rise to limited service varieties, substandard quality and relatively high prices.[31] Besides, for-profit private elderly care institutions in China are generally confronted with practical difficulties such as large-scale investment, long payback periods and low profit margins. Coupled with an imperfect legal and policy system, their overall development remains at a relatively low level with a limited proportion in total institutions. A huge number of for-profit private elderly care institutions are operating at a loss.

It should also be noted that there exist two special types of for-profit private elderly care institutions in practice.[32] One category of institutions, plagued by sustained operating losses, intends to transform into non-profit entities to access policy support. The other category is established with public-welfare objectives from the very beginning. Nevertheless, constrained by the dual administration system, they cannot register as social-service organizations with civil affairs authorities and have to be incorporated as for-profit entities instead. Due to the mismatch between their positioning and institutional arrangements, these two types of institutions can hardly give full play to their social benefits. Accordingly, for-profit private elderly care institutions still face numerous institutional and practical challenges if they are to play a more significant role within the elderly care service system.

C. Social-oriented supply: inclusive human rights supply for all the elderly

For a long time, China's elderly care services have mainly relied on the dual supply mechanism of "government-market." Nevertheless, practical problems such as insufficient supply and structural imbalance exposed by this model have triggered academic reflections on the structure of supply actors.[33] Such reflections can be categorized into two levels. First, beyond the government and the market, are there third-sector actors that can participate in the supply of elderly care services so as to respond more comprehensively to the well-being needs of the elderly? Second, against the long-standing dilemma of limited government capacity and insufficient market incentives in the elderly care field, what role should the social sector play? As a core force for the third distribution, social organizations undertake functions transferred from the government, act as frontline providers of public-service delivery, strengthen social connections, and motivate social forces to engage in philanthropic activities.[34] Stimulating social vitality constitutes an important measure to give full play to the role of the third distribution and provide sustained impetus for the realization of common prosperity. Accordingly, social-service organizations, as an important form of social organizations, have gradually come into the research

[31] Lu Yingchun, *Public-Private Partnerships: Exploration of Elderly are Service Supply in Shanghai* (Shanghai: Shanghai People's Publishing House, 2019), 52.
[32] Zhao Qinghang, "Dilemmas and Development of Private non-Enterprise Units: Starting from the Development Status of Private-run Elderly Care Institutions," *Research of Administration of NPOs* 11 (2012): 34.
[33] Zhao Qinghang, *A Study on the Legal System of Private Non-enterprise Units: Based on the Development Status of Private-run Elderly Care Institutions* (Hangzhou: Zhejiang People's Publishing House, 2011), 2-9.
[34] Xu Jialiang, "The Third Distribution and High-Quality Development of Social Organizations," *China Civil Affairs* 23 (2021): 25.

horizon of public-service studies.

The rise of social-service organizations has broadened the supply channels for public services and improved service performance to a certain extent. In the elderly care sector, their institutional carriers are non-profit private elderly care institutions, namely social organizations established with non-state-owned assets and engaged in non-profit elderly care services. Different from public institutions set up by the government as well as profit-oriented enterprises, such entities feature service orientation, non-governmental nature, and non-profit nature, and are legally defined as social-service organizations.[35] Social-service organizations possess the public and public-welfare attributes of government entities, yet they can operate under enterprise-like operational modes, enabling the delivery of public services to balance equity and efficiency.[36] The above-mentioned characteristics determine that they can provide universal elderly care services for the elderly population.

In terms of both theory and practice, non-profit private elderly care entities can mitigate to some extent the dual predicament of government failure and market failure, and also effectively avoid the constraints of contract failure. On the one hand, they can effectively supplement public elderly care resources, expand the supply of elderly care beds, and ease the pressure stemming from insufficient government investment. Different from the profit-driven logic of the market, by their non-profit nature, their service delivery is based not merely on consumer preferences but also integrates mutual aid functions and social responsibilities. On the other hand, for entities committed to engaging in elderly care services, their establishment of non-profit private elderly care institutions is subject to the rigid constraint of the non-distribution-of-profits principle applicable to non-profit legal persons.[37] This institutional arrangement deprives founders of the intrinsic incentive to generate surpluses through excessive cost-cutting. Meanwhile, since such entities are not profit-oriented, their motivation for participating in elderly care services stems solely from value rationality.[38] Rooting elderly care service supply within society helps activate endogenous social resources. Through socially-driven self-organization, relatively high elderly care benefits can be achieved at lower costs.[39] At present, non-profit private elderly care institutions in many cities have attained a certain scale with growing social influence. As a demonstration zone for common prosperity, Zhejiang Province regards improving people's well-being and advancing common prosperity as the fundamental goal and logical starting point for social-service organizations. By expanding social participation and enhancing professional capacity, social

[35] Social service agencies are the successor to private non-enterprise units and are still governed by the *Interim Regulations on the Registration and Administration of Private Non-enterprise Units*.

[36] Chen Zhigang et al., *The Role of Social Organizations in the Third Distribution: Zhejiang's Experience in Promoting Common Prosperity* (Hangzhou: Zhejiang University Press, 2026): 49.

[37] Pursuant to Article 87 of the *Civil Code* of the People's Republic of China, a non-profit legal person shall not distribute its profits obtained to investors, founders or members. According to Article 95 of the *Civil Code* of the People's Republic of China, where a non-profit legal person established for public interest purposes is terminated, its remaining assets shall not be distributed to its investors, founders or members but shall continue to be used for public interest purposes. As for specific disposal, the supplies of its articles of association or resolutions adopted by its governing organ shall prevail if any; if such disposal cannot be implemented accordingly, the competent authority shall transfer the remaining assets to a legal person with identical or similar purposes and make an announcement to the public. In fact, the *Interim Regulations on the Registration and Administration of Private Non-Enterprise Units* also contains preliminary supplies on the principle of profit distribution prohibition. Clause 2 of Article 21 thereof stipulates that "the legitimate income obtained by a private non-enterprise unit in carrying out activities specified in its articles of association in accordance with relevant state supplies must be used for the business activities set forth in its articles of association." Nevertheless, such supplies are neither prominent nor sufficiently elaborate.

[38] For relevant discussions on value theory, see Jin Jinping, "On the Construction of the Basic System for the Coordinated and Supporting Three-Distribution," *Philanthropy Studies* 1 (2025): 21.

[39] Li Qinyi, "Welfare Dislocation: Practical Deviation of China's Inclusive Elderly Care Policy in Counties and Its Interpretation," *Chinese Social Security Review* 5 (2023): 130.

organizations can give full play to their positive role in serving the country, society and industries. In the elderly care sector, relevant policies explicitly propose guiding social organization resources toward the elderly population. Entering the 15th Five-Year Plan period, Zhejiang further emphasizes fostering and developing elderly-related social organizations.[40]

Besides, social-service organizations are subject to certain rational constraints in their organizational behaviors. As social entities that shall independently bear operational risks, they attach greater importance to prudence and sustainability in investment and operation, which helps avoid excessive expansion and resource waste that are prone to occur within public sectors. In this sense, although Article 11 of the *Interim Regulations on the Registration and Administration of Private Non-Enterprise Units*, which stipulates that registration shall be denied for entities with similar businesses within the same region, remains controversial, it objectively curbs the disorderly expansion of similar institutions and bears certain implications for resource allocation.

D. Tripartite coordination: inclusive human-rights-oriented elderly care service supply

Under the goal of common prosperity, the supply of universal elderly care services is by no means a one-sided emphasis on government responsibility. Instead, it follows government-led governance and advocates shared responsibilities among multiple stakeholders, so that the elderly can share the fruits of common prosperity. Zhejiang Province attaches importance to multi-agent supply of elderly care services and clarifies the boundaries of rights and obligations for various parties. It has incorporated basic public services provided by the government, market-oriented services delivered by enterprises, as well as public-welfare and mutual-aid services offered by social organizations as integral components of the socialized elderly care service system.[41] "Non-governmental organizations represent a major organizational and institutional innovation emerging beyond the market system and the state system. Their vigorous rise constitutes a response and solution to market failure and government failure confronting human society in the pursuit of sustainable development. As organizational and institutional innovations, non-governmental organizations offer new promising alternatives outside the 'enterprise-market' system and the 'government-state' system."[42] The government, the market and society constitute the triple system of modern public governance. As some scholars put it, "Only a tripartite standing system can be stable."[43] In fact, in terms of construction subjects, there is consistency among the co-construction nature of subjects for advancing common prosperity, the joint effort nature of subjects for the development of human rights, and the diversity of supply subjects for universal elderly care services. It should be acknowledged that the development of China's social sector is relatively backward. Nevertheless, over the past two decades, with the gradual opening-up of the policy environment, social organizations have gradually grown into a non-negligible public force.

It is undeniable that social organizations are imperfect. The theory of voluntary failure points out that social organizations often encounter problems such as insufficient resources, service limitations and lack of professionalism, and cannot independently take full responsibility for public-service supply.[44]

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[40] *Outline of the 15th Five-Year Plan for National Economic and Social Development of Zhejiang Province.*
[41] Article 2 of the *Regulations of Zhejiang Province on the Promotion of Social Elderly Care Services*.
[42] Guo Daohui, *Social Power and Civil Society* (Nanjing: Yilin Press, 2009), 51.
[43] Wang Shaoguang, "Promoting the Development of China's Civil Non-profit Sector," *Management World* 8 (2002): 45.
[44] Lester M. Salamon, *Partners in Public Service: Government-Nonprofit Relations in the Modern Welfare State*, Tian Kai trans. (Beijing: The Commercial Press, 2008), 46-50.

Therefore, in building a multi-agent collaborative elderly care service system, emphasis should be attached to giving full scope to the comparative advantages of the government, the market and the social sector so as to foster a supply pattern characterized by complementary functions and shared responsibilities. The *Opinions of the CPC Central Committee and the State Council on Deepening the Reform and Development of Elderly Care Services* has proposed establishing a tripartite coordination mechanism for the development of elderly care undertakings and industries. It includes giving play to the government-led role in developing elderly care undertakings, exerting the market's role in resource allocation for the development of elderly care industries, and encouraging social participation in elderly care services. It is evident that China's elderly care service supply model is gradually shifting from the dual structure of "government-market" to the tripartite interaction of "government-market-society." This can avoid excessive marketization or excessive state-domination and drive the transformation of elderly care services from quantity expansion to high-quality development.[45]

To enable the quality improvement and coverage expansion of universal elderly care services under the tripartite supply framework, it is necessary to improve the hierarchical and classified elderly care service system.[46] Represented by Zhejiang Province, the elderly care service supply system has formed a gradient classification consisting of interconnected guarantee-oriented, fully market-oriented, and universal support-oriented models.[47] Guarantee-oriented elderly care institutions mainly accommodate the destitute and financially challenged elderly with disabilities, with the government providing basic elderly care services to protect their right to subsistence. Fully market-oriented elderly care institutions primarily target elderly people with sound financial capacity, where the market delivers diversified non-basic elderly care services for the realization of their right to development. Universal support-oriented elderly care institutions mainly cater to the elderly in the general public who constitute the majority of society. Social service organizations provide inclusive non-basic elderly care services with non-profit and welfare-based charges for them.[48] Meanwhile, hierarchical and classified management also helps improve service accuracy and reduce idleness and waste of service resources.[49]

In the strategic process of solidly advancing common prosperity, the core of protecting the universal human rights of the elderly lies in realizing the sharing of development achievements. The key focus to achieve this goal is to accurately respond to and effectively meet the elderly care service demands of the general elderly population, which serves as an institutional path to narrow social welfare gaps and

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[45] Han Keqing and Shen Chen, "Elderly Care Service and Common Prosperity: A Case Study of Zhejiang Province," *Social Security Studies* 4 (2023): 15.

[46] The website of the Central People's Government of the People's Republic of China, "State Council Executive Meeting Studies Work on Promoting the Development of the Silver-hair Economy and Elderly Care Services," accessed March 26, 2026, http: //www. gov. cn/zhengce/202602/content_7059423.htm.

[47] "*Zhejiang Provincial Party Committee of the CPC, People's Government of Zhejiang Province, Implementation Opinions on Deepening the Reform and Development of Elderly Care Services for Promoting Common Prosperity*.

[48] Wang Biying, *Research on the Construction of Elderly Care Service System in the New Era*（Xianmen: Xiamen University Press, 2022), 33. For relevant discussions on the connotations of basic public services, universal non-basic public services and diversified non-basic public services, see Zhong Yumin, "What are Non-basic Public Services: A Comparison with Basic Public Services and Private Services," *Social Sciences in Chinese Higher Education Institutions* 1 (2026): 72-83. Part 4 of the *14th Five-Year Plan for Public Services* is dedicated to "Expanding the Supply of Inclusive Non-basic Public Services," which includes supplies on actively developing universal elderly care services. With regard to advancing the inclusive development of non-basic public services, it specifically sets forth requirements for promoting inclusive pricing. That is, in accordance with the principles of cost-recovery with modest profits, high-quality services at appropriate prices, resource conservation and equitable burden-sharing, public-service prices shall be rationalized at an accelerated pace. Suppliers of non-basic public services shall be guided to deliver inclusive non-basic public services compatible with the income levels of local urban and rural residents, and excessive profit-seeking conduct shall be curbed.

[49] Zhen Bingliang, *Report on the Development of Aged Care in China (2024)* (Beijing: Social Sciences Academic Press, 2025), 43.

embody distributive justice. Through policy guidance, resource support and regulatory norms, the government shall promote capacity-building of social-service organizations. It shall also establish institutionalized partnerships with them via modes such as non-government-run institutions with government support, government purchase of services and cooperative operation, so as to build a collaborative elderly care service supply mechanism featuring government guidance, social operation and public participation, and realize the inclusive supply of elderly care services.

III. Theoretical Justification for Socialized Elderly Care in Protecting the Inclusive Human Rights of the Elderly

The participation of social-service organizations in elderly care services mainly falls within the scope of benefit administration, without direct involvement of coercive public power, so their legitimacy will not be easily denied. At the normative level, their participation is legitimate, and also embedded within a specific structure of public law obligations. Based on the current supply status of the three above-mentioned types of elderly care institutions, this section aims to demonstrate three core propositions at different levels: first, the supply of elderly care services constitutes a constitutional obligation that the state must perform; second, the participation of social forces in elderly care services likewise has constitutional and legal grounds for obligation; third, in fulfilling such obligations, the state and society shall establish a well-divided and collaborative responsibility structure in accordance with the principle of subsidiarity.

A. Positive obligations of the state in socialized elderly care services and the promotion of human rights

With the evolution from modern constitutions to contemporary constitutions, the scope of constitutional rights has gradually expanded from focusing on liberty rights and political rights to encompassing economic, social and cultural rights, reflecting a functional shift from defending against state infringements to demanding positive state benefits. In this process, the benefit-right function of constitutional rights has become increasingly prominent,[50] emphasizing that the state is obligated to take positive actions to guarantee the realization of citizens' social rights. China's *Constitution* proclaims that "the state respects and protects human rights." Clause 4 of Article 14 stipulates that "the state shall establish and improve a social security system compatible with the level of economic development." This imposes positive action obligations on the state in the field of social security and constitutes the constitutional basis for the state to perform its duty of subsistence care. This supply echoes the social security concept established in Article 25 of the *Universal Declaration of Human Rights*, and is rooted in the people-centered development philosophy and the fundamental purpose of serving the people upheld by the socialist system with Chinese characteristics. Against the backdrop of building a service-oriented government, the rise of the idea of service-oriented administration further strengthens the state's role in providing public services and actively performing benefit-delivery obligations.

Specifically in the field of elderly care services, state obligations bear threefold connotations. First, at the value level, given the competitive market-economy environment and the vulnerable position of the elderly stemming from differences in resource endowments, the state is obligated to guarantee their basic

[50] Guo Yuejun, *A Study on the Right to Social Security* (Shanghai: Shanghai People's Publishing House, 2010), 157.

dignity of life through institutional supply, which constitutes an inherent requirement of the socialist system. Second, at the substantive level, the right to social security covers two major dimensions: material security and social services. As comprehensive services integrating daily care, medical nursing, and spiritual consolation, elderly care services fall within the scope of state obligations. Third, in terms of implementation approaches, the performance of state obligations is not limited to directly running public elderly care institutions. It also includes promoting the joint development of a multi-level and sustainable elderly care service system together with social forces via policy guidance, resource support and collaborative governance.

With the deepening of reform and opening-up as well as administrative system reform, the separation of government from enterprises and the separation of government from social organizations have been continuously advanced, and government functions have gradually shifted from an all-powerful model to a service-oriented one. Against this backdrop, sole reliance on direct public-service supply by the government can hardly effectively respond to diverse social demands. To improve the supply efficiency of elderly care services and overcome the dual dilemma of government failure and market failure, the government needs to realize its role transformation from a "rower" to a "steerer." Through institutional innovation to encourage active participation of social forces, a new public-service supply model characterized by collaborative governance shall be established. The partnership built between the government and social-service organizations serves as a profound reflection of the state's positive and innovative performance of its constitutional obligations.

"In the new pattern of state-society relations, the performance of benefit-administration tasks by private actors is factually related to the positive obligations borne by the state for benefit-administration. Such positive obligations are concretely manifested in the state's 'encouragement' and 'support' for private participation in benefit-administration, which is distinctly different from order-administration."[51] Therefore, the state's encouragement and support for social forces to participate in elderly care services is an extension of benefit-administration, and also a concrete embodiment of its performance of positive obligations. Under the framework of modern state-society relations, the assumption of benefit-administration tasks by private actors does not exempt the state from its constitutional guarantee responsibilities. On the contrary, it requires the state to actively perform its facilitative obligations of encouragement and support through policy guidance, resource support and institutional norms.

Clause 2 of Article 5 of the *Law on the Protection of the Rights and Interests of the Elderly of China* establishes the social-based elderly care service system featuring "home-based care as the foundation, community-based care as the support, and institutional care as the backup." Together with the overarching goal for the state to build a multi-level social security system, they embody the normative implication of the principle of subsidiarity. While clarifying the state's ultimate responsibility, this system also outlines the hierarchical allocation of responsibilities and collaborative relationship between the state and society in elderly care service supply. It indicates that China is gradually transforming from the traditional regulatory model of "big government, small society" toward a modern governance pattern of joint governance by the government and society. As scholars observe, "Administrative modes of

[51] Hu Minjie, "Personal Legal Status in Welfare Administration: Taking Administration of Old-age Security for Example," *Journal of The East China University of Politics Science and Law* 2 (2011): 20.

public-service supply and subsistence care delivered to individuals through private law will become two central components alongside intervention-administration within modern administrative law, and may even surpass intervention-administration in importance."[52]

Against the trend of China's administrative rule-of-law expanding from intervention-administration to benefit-administration, the state has systematically established a support system for private non-profit elderly care institutions through legislative and policy instruments, which is reflected specifically in the following three aspects. First, pursuant to Articles 10, 39 and 40 of the *Law on the Protection of the Rights and Interests of the Elderly of China*, governments shall commend and reward qualified institutions and provide explicit support in finance, tax and fees, land, financing and other aspects. For instance, it stipulates that "land for public-welfare elderly care service facilities may, in accordance with law, use state-owned allocated land or land owned by peasant collectives." Second, income tax, value-added tax and other tax reductions and exemptions are granted to social-service organizations under the *Enterprise Income Tax Law of the People's Republic of China* and relevant tax normative documents so as to lower their operating costs. Meanwhile, in accordance with the *Law of the People's Republic of China on Donations for Public Welfare* and other legal norms, tax incentives are implemented for public-welfare donations by enterprises and individuals to channel social resources toward the elderly care sector.[53] Third, centering on policy objectives such as the socialization of social welfare and accelerated development of elderly care services, the state has successively issued a series of supporting documents, forming institutional synergy to encourage social forces to set up elderly care institutions from multiple dimensions, including land, fiscal-tax policies and market access. This reflects the state's consistent policies and continuous efforts in performing its positive obligations.

B. Constitutional and jurisprudential basis for social actors in protecting the right to elderly care

The *Constitution* does not confine the subjects of social security obligations exclusively to the state. In the Marxist view of the state, society exists before the state, and state power is grounded in society.[54] Accordingly, Articles 44[55] and 45[56] of the *Constitution* designate both the state and society as responsible subjects for safeguarding the livelihood of retirees and citizens' right to material assistance. This indicates that society, like the state, bears constitutional obligations in realizing citizens' right to social security. It should be noted that although these constitutional supplies are often interpreted as "policy-oriented norms" or "obligations of progressive realization," they establish the constitutional status of special protection for the elderly. Their fundamental purpose is to remove obstacles to the realization of the elderly's rights arising from their insufficient capacities through joint positive actions by the state and society.

In the author's opinion, the term "society" herein shall be understood as an aggregate of various organized social forces. Social service organizations, enterprises and institutions, and grassroots mass-

[52] Zhang Jiansheng, "Challenges Faced by Modern Administrative Law and Its Responses," *Studies in Law and Business* 6 (2006): 52.
[53] Zhao Qinghang, "On Taxability and Tax Preferences for Private Non-enterprise Units," *Research of Administration of NPOs* 10 (2012): 44.
[54] Guo Daohui, "Checking State Power with Social Power," in *Studies on Legal-Modernization (vol. V)*, Research Center for Legal-Modernization of Nanjing Normal University ed. (Nanjing: Nanjing Normal University Press, 1999), 351.
[55] Article 44 of the *Constitution of the People's Republic of China*: "The livelihood of retirees shall be ensured by the state and society,"
[56] Clause 1, Article 45 of the *Constitution of the People's Republic of China*: "Citizens of the People's Republic of China shall have the right to material assistance from the state and society when they are aged, ill or have lost the capacity to work."

autonomous organizations together constitute the basic units of society. Among them, for-profit organizations represented by companies and social organizations dedicated to public-welfare non-profit purposes are two typical forms within the social structure. Accordingly, private non-profit elderly care institutions, as an important type of social organization, naturally form part of society, and their participation in elderly care services bears the attribute of obligations conferred by the *Constitution*.

At the legal level of constitutional concretization, the relevant obligations of society are stipulated more explicitly. Clause 2 of Article 4 of the *Law on the Protection of the Rights and Interests of the Elderly of China* generally sets forth the joint responsibilities of the state and society in improving the system for protecting the rights and interests of the elderly.[57] Correspondingly, Article 3 of this Law endows the elderly with the right to obtain material assistance, social services and social preferential treatment from the state and society.[58] These two provisions constitute a normative structure of corresponding rights and obligations, providing direct legal grounds for the participation of social forces in elderly care services. Within such rule-of-law framework, as an important component of social forces, the vigorous development of private non-profit elderly care institutions represents a remarkable contribution in the social sphere, and also a vivid practice of performing the aforesaid legal obligations.

C. The principle-of-subsidiarity-based responsibility structure of the state and society in protecting the right to elderly care

The state and society play functionally complementary and indispensable roles in the supply of elderly care services. On this basis, it is necessary to further clarify the specific mechanism for the allocation of responsibilities between them.[59] Point 6 of the *Outline for Promoting Law-based Administration in an All-round Way* states that for matters that can be independently resolved or effectively regulated by society, the market or self-regulatory mechanisms, administrative organs shall in principle refrain from resolving them through administrative measures. This can be regarded as the normative expression of the principle of subsidiarity within the context of China's administrative rule-of-law. Its spirit has permeated the institutional design of public-service fields such as elderly care services. The above-mentioned allocation of responsibilities serves as a typical embodiment of the principle of subsidiarity in the field of benefit-administration. The German scholar G. Dürig first put forward the principle of subsidiarity in his 1953 article *Verfassung und Verwaltung im Wohlfahrtsstaat*.[60] This principle emphasizes the priority of individuals and society in terms of self-responsibility and mutual aid. The state shall bear supplementary obligations only when individuals and society are unable to achieve adequate self-protection.[61] With the advancement of the New Public Management movement and the transformation of the welfare state, the connotation of the principle of subsidiarity has expanded from the traditional dual-track "state-individual" relationship to a tripartite

[57] Clause 2 of Article 4 of the *Law on the Protection of the Rights and Interests of the Elderly of China*: "The state and society shall take measures to improve various systems for protecting the rights and interests of the elderly, gradually improve conditions for safeguarding the elderly's livelihood, health, safety and participation in social development, so as to realize the goals that the elderly are properly provided for, have access to medical care, can play their due roles, enjoy learning opportunities and lead happy lives."
[58] Clause 2 of Article 3 of the *Law on the Protection of the Rights and Interests of the Elderly of China:* "The elderly shall have the right to obtain material assistance from the state and society, the right to enjoy social services and social preferential treatment and the right to participate in social development and share the achievements in development."
[59] Zhang Yanfeng, "Responsibility Distribution Between the Government and Society in Guaranteeing Basic Senior Care Services," *Human Rights* 2 (2023): 96.
[60] Vgl. Günter Dürig, Verfassung und Verwaltung im Wohlfahrtsstaat, JZ8 (1953), S.193.
[61] Yu Shaoru, *A Study on the System of Administrative Supply* (Beijing: People's Publishing House, 2011), 127-132.

collaborative framework of "individual-society-state." That is: "Individuals shall first provide for themselves. When individual self-supply cannot meet their needs for subsistence and development, social-service supply may be considered; and only when society is also incapable of providing such services shall state public power step in to deliver supplementary services."[62] Its core lies in properly defining the boundary of state intervention, safeguarding the space for social autonomy, and ensuring the realization of citizens' social rights. As General Secretary Xi Jinping pointed out, "The government cannot take on everything. Its priority is to strengthen the development of basic, universal and bottom-line-guaranteeing people's livelihood security. Even when we achieve a higher level of development and stronger financial capacity in the future, we should not set overly high targets or provide excessive welfare guarantees, and must resolutely avoid falling into the welfare-state trap of fostering idleness."[63]

The principle of subsidiarity offers theoretical support for understanding the division of roles between the state and society in elderly care service supply, and also lays a jurisprudential foundation for building a multi-level and sustainable elderly care service system featuring government guidance, social collaboration and public participation. To this end, China's current legal system has initially developed a hierarchical responsibility framework. Article 13 of the *Law on the Protection of the Rights and Interests of the Elderly of China* establishes the principle of home-based elderly care as the foundation, clarifying the primary responsibility of families in elderly care supply. Article 39 of the same law further defines the responsibilities of governments and society in elderly care service supply,[64] forming a progressively ordered and interlinked responsibility chain of "family-society-state." Within this system, socialized elderly care serves as supplementary support with obvious internal functional differentiation. Namely, pursuant to Article 41 of the *Law on the Protection of the Rights and Interests of the Elderly of China*, public elderly care institutions mainly undertake the bottom-line guarantee for specific groups of elderly people such as the financially-strapped solitary, persons with disabilities and advanced-aged elderly. By contrast, private non-profit elderly care institutions provide universal elderly care services for a broader group of the elderly. This reflects that the order of performance of obligations required by the principle of subsidiarity — society first, state as supplement — is also followed within the field of elderly care service supply.

D. Improvement paths for socialized elderly care services from the perspective of inclusive human rights protection

As General Secretary Xi Jinping has pointed out: "The rule of law provides the most effective guarantee for human rights. We uphold the equality of all people before the law … and accelerate the improvement of legal systems that embody equity in rights, opportunities and rules … to protect citizens' economic, cultural, social, environmental and other rights, and continuously enhance the level of law-

[62] Liu Shen and Wang Xuan, "On Service-oriented Administration in a Service-oriented Government," in *Review of Constitutionalism and Administrative Rule of Law* (vol. 4) (Beijing: China Renmin University Press, 2010), 183.
[63] Institute of Party History and Literature of the CPC Central Committee, *A Compilation of Excerpts from Discourses by Xi Jinping*, 28.
[64] Article 39 of the *Law on the Protection of the Rights and Interests of the Elderly of China* provides: "People's governments at all levels shall gradually increase investment in elderly care services in light of the level of economic development and the service needs of the elderly. People's governments at all levels and relevant departments shall adopt measures in respect of finance, tax and fees, land and financing to encourage and support enterprises, public institutions, social organizations and individuals to establish and operate facilities for elderly care services, day-care services for the elderly, and cultural-sports activities for the elderly."

based protection for human rights."[65] Therefore, we should take the development of institutional mechanisms for socialized elderly care as the starting point, adopt effective measures to elevate the rule-of-law protection level for the inclusive human rights of the elderly, and promote the gradual advancement of the elderly's human rights from de jure rights to legal rights, and further to de facto rights. Within the basic elderly care service supply system, social-service organizations, as representatives of the social sector, mainly participate by delivering public services through privatization mechanisms. In China's context, although both *minyinghua* (privatization of public services) and *siyouhua* (ownership privatization) are translated from the English term "privatization," they differ in connotation. Ownership privatization generally refers to the transfer of equity in state-owned enterprises to the private sector, focusing on changes in ownership. By contrast, the Chinese public-service privatization emphasizes breaking government monopoly in public-service supply and introducing social capital and competition mechanisms. It manifests itself in the restructuring of roles and collaborative governance between the government and social forces in performing public tasks.[66] This process exhibits such concepts of modern governance as public-private partnership and collaborative administration. Its purpose is to optimize the pattern of public-service supply through reasonable devolution of administrative power and extensive participation of social forces, with the purpose of removing institutional and mechanical obstacles in protecting the elderly care right, and improving the state's practical responsiveness to the rights claims of the elderly.

A. Practical gains of the privatization of elderly care services for the inclusive human rights of the elderly

Since the 1980s, the United States has broadly pushed privatization in welfare, shifting service functions to social actors through bidding, qualification, accreditation, and other means. This trend illustrates the positioning of privatization as a basic approach of social governance. As scholars have noted, "Privatization is more than a managerial tool; it is a basic strategy of social governance. It takes deep roots in some fundamental philosophical or social convictions about the government itself and its proper role relative to other social organizations within a free and healthy society. Privatization is a means but not an end; its goal is better government and a better society."[67] Privatization helps elevate the human rights protection for the elderly beyond passive relief for basic subsistence rights and interests. Within the framework of common prosperity, such protection is further reflected in upholding the elderly's development-related rights and interests.

Though "privatization" in China exists predominantly as an academic concept, the participation of social organizations in administrative tasks has unfolded across numerous fields. The supply of elderly care services by social-service bodies serves as a typical case in point. Since the General Office of the State Council transmitted the *Opinions on Accelerating the Socialization of Social Welfare* (General Office of the State Council〔2000〕No. 19) issued by the Ministry of Civil Affairs of the People's Republic of China together with 10 other ministries and commissions in 2000, national policies have

[65] Xi Jinping, "Steadfastly Following the Chinese Path to Promote Further Progress in Human Rights," *Qiushi* 12 (2022): 7.
[66] Shi Youqi and Zeng Peng, "Administrative-law Regulation of Public Utility Privatization," *Wuhan University Journal (Philosophy & Social Sciences)* 5 (2012): 64.
[67] E.S.Savas, *Privatization and Public-Private Partnerships*, Zhou Zhiren et al. trans. (Beijing: China Renmin University Press, 2002), 350.

continuously clarified the orientation for the socialization of social welfare. They advocate the formation of a co-development pattern of social welfare institutions under multiple forms of ownership, and establish an administrative system characterized by macro-level government regulation, establishment by social forces, and independent operation of institutions. Subsequent documents such as development plans for China's aging undertakings have continued and deepened the above-mentioned thinking, highlighting the functions of market mechanisms, galvanizing social forces, and advancing the socialization and industrialization of the elderly care service industry.

The state pursues the privatization strategy mainly based on three considerations. For one thing, economically speaking, it helps ease fiscal pressure, introduce competition mechanisms, and improve the quality and efficiency of service supply. For another, with respect to resource pooling, it can broadly absorb social funds and professional manpower, expand supply channels, and enhance the accessibility and diversity of people-oriented services. Finally, regarding governance restructuring, it nurtures cooperation between the government and society and builds a modern public-service supply system with greater flexibility, responsiveness, and professionalism. Currently, the privatization of elderly care services stands as a vital strategic path for China to address population aging and develop a socialized elderly care service system. Its essence lies in establishing a shared burden social security model jointly borne by the state and society. On the premise of affirming the ultimate responsibility of the government, it highlights the functional positioning and governance effectiveness of social-service organizations.

B. Realization approaches to equal access to the elderly's right to elderly care through privatization

During the privatization of welfare governance, the role of the state tends to shift from a direct service provider to a regulator and facilitator. Administrative measures have also become diversified, making better use of market-oriented mechanisms such as contractual governance and competitive bidding. For instance, the *Several Opinions on Promoting Consumer Services to Strengthen Weaknesses and Upgrade and Improving People's Quality of Life* formulated by the National Development and Reform Commission proposes to "scale up the supply of inclusive life services. In fields with prominent supply-demand contradictions such as services for the elderly and children, social forces shall be brought in via government purchase of services, the public-built-private-operated model and the private-run-public-supported model to develop universal life-services with guaranteed quality and affordable prices." Practice has proven that privatization approaches for developing socialized elderly care undertakings, including public-built-private-operated, private-run-public-supported, and government purchase of services, have been widely implemented. As an instrument-based governance mechanism, actively supporting privatized elderly care services ultimately serves the elderly population.

1. The public-built, privately-operated model: Inclusive human rights-oriented service supply centered on accessibility

The *Opinions of the CPC Central Committee and the State Council on Deepening the Reform and Development of Elderly Care Services* states: "Efforts should be made to encourage social forces to construct, reconstruct or expand elderly care service facilities, and support public-built-private-operated and comparable models to increase high-quality institutional elderly care services." "The implementation of the public-built-private-operated model represents a substantive reform of separating

government administration from service delivery. It constitutes reform and innovation in the elderly care sector's management framework, operational mechanism, employment system, distribution system and resource-allocation patterns."[68] Zhejiang Province has pioneered the transformation of public-built, privately-operated elderly care institutions toward a universal support-oriented model.[69] This operational model generally takes three practical forms. First, the government provides land or partial financial support, jointly builds elderly care facilities together with social-service organizations, and entrusts the latter with their operation. Second, after the government independently invests in and completes the construction of elderly care institutions, it entrusts social-service organizations to run them through bidding procedures. Third, the government entrusts completed elderly care institutions as a whole to social-service organizations for contracted operation.

In the public-built-private-operated model, the government retains asset ownership and transfers facilities to operators via lease or contract for operation, separating ownership from management rights. Operating entities bear full responsibilities for their own profits and losses, undertake asset preservation obligations, and pay rent or contract fees to the government as agreed. This model markedly lowers the initial investment threshold for social actors, exempting them from high land and construction costs, which helps rapidly scale up service supply. From a human rights perspective, the core value of this model rests in improving the accessibility of elderly care services. That is, by reducing institutional construction costs and shortening construction cycles, more elderly people in various regions (especially rural and remote areas) can access professional elderly care services nearby.

Nevertheless, several problems have emerged in the practice of the public-built-private-operated model. Some local governments tend to hand over projects to external service operators entirely without follow-up supervision. The entrusted service operators may take advantage of low-cost public resources to run businesses beyond the scope of public-welfare and mutual aid, and even misappropriate operating revenues, thereby jeopardizing the non-profit nature of such institutions. "Public-built-private-operated elderly care institutions shall not pursue high-end and specialized positioning, blindly raise construction standards and access requirements, or give rise to mismatches between service supply and target service groups."[70] Delayed or improper performance of state obligations will hinder the full realization of the elderly's human rights. To avoid inequality stemming from excessive marketization and regulatory costs arising from market disorder,[71] governments must strengthen whole-process supervision. More specifically, they should formulate comprehensive and standardized transformation plans, conduct strict assessment of assets to be entrusted, select qualified operators through open and transparent procedures, prudently draft and implement entrusted-operation contracts, and exercise ongoing and rigorous oversight over institutional operations, to prevent the alienation of public-welfare objectives and the absence of government responsibilities.

2. The private-run, public-supported model: Equitable human rights protection oriented to

[68] Yan Qingchun, "Public-operated-to-private-managed" and "Public-built-private-operated" Modes of Elderly Care Institutions, *Social Welfare* 1 (2011): 13.
[69] *Zhejiang Provincial Party Committee of the CPC, People's Government of Zhejiang Province, Implementation Opinions on Deepening the Reform and Development of Elderly Care Services for Promoting Common Prosperity.*
[70] Tan Ji, "Legal Implementation and Regulation of Public-built-private-operated Elderly Care Institutions," *Law Review* 6 (2025): 92.
[71] Hu Minjie, "Government-guaranteed Contracts for Elderly Care Services in the Process of Chinese Modernization," *Contemporary Law Review* 5 (2023): 63.

affordability

The private-run, public-supported model means that social entities establish private non-profit elderly care institutions with non-public assets, while the government offers multifaceted support via planning guidance, fiscal funding, land supply, tax incentives and other measures. In essence, it represents the concrete practice of administrative payment in the field of socialized elderly care services and can be defined as an administrative subsidy model centered on financial grants. From the human rights perspective, its core value lies in safeguarding the affordability of elderly care services. That is to say, by cutting the daily operational expenditures of care institutions, such institutions are enabled to deliver affordable, low-profit or non-profit care services to ordinary elderly people, thereby facilitating the universal coverage required by universal human rights protection.

To alleviate the prevalent survival and development pressures confronting private non-profit elderly care institutions, governments at all levels have rolled out a bundle of supportive documents, forming a multi-level policy system that spans central and local authorities. At the central level, following the issuance of the *Decision of the CPC Central Committee and the State Council on Strengthening Work on Aging* (CPC Central Committee〔2000〕No. 13), the Ministry of Finance of the People's Republic of China, State Taxation Administration of the People's Republic of China, Ministry of Civil Affairs of the People's Republic of China and other departments have successively introduced targeted supporting measures concerning construction land, tax preferences, public utility fee reductions and exemptions, and financing channels. As a provincial practice, for instance, the *Measures for the Administration of the Use of Special Provincial Subsidy Funds for Private-Run Elderly Care Institutions in Zhejiang Province* clarifies that provincial fiscal funds and welfare-lottery public-welfare funds shall be adopted to subsidize newly added elderly care beds. At the municipal level, documents such as the *Implementation Opinions of the General Office of Hangzhou Municipal People's Government on Accelerating the Establishment of the Basic Elderly Care Service System* (Hangzhou Administration Office〔2023〕No. 60) elaborate tax-fee preferential policies for the development of the elderly care service industry. It stipulates that elderly care institutions shall enjoy residential tier prices for electricity, water and gas supplies, alongside preferential charging policies for television, telephone, broadband network and other services. The above supplies are highly operable.

Such policies constitute institutional guarantees for the elderly's right to subsistence and right to benefit, and also a positive response to practical demands for elderly care services. From the author's perspective, the private-run-public-supported model can be defined as an institutional arrangement with a "dual-benefit payment" effect. The first tier is direct payment: the government provides direct financial and resource support to private non-profit elderly care institutions to help them improve their operation and service capabilities. The second tier is indirect payment: by fostering institutional development, such institutions can continuously deliver high-quality and affordable services to the elderly under a public-welfare non-profit model, thereby realizing their legitimate service rights.

To further optimize the private-run-public-supported operational model, institutional construction in the following aspects is essential. The first is to reform the registration administration system for social organizations. Given that the dual-management registration mechanism formulated under the *Interim Regulations on the Registration and Administration of Private Non-Enterprise Units* has seriously lagged

behind practical development,[72] revisions to relevant legislation should be advanced in accordance with the reform requirements for direct registration of specific social-service organizations outlined in the *Decision of the CPC Central Committee on Several Important Issues of Comprehensively Deepening Reform*[73] and the *Opinions of the General Offices of the CPC Central Committee and the State Council on Reforming the Management System of Social Organizations to Promote Their Sound and Orderly Development*.[74] This will lower the market access threshold for welfare-oriented social-service organizations.[75] The second is to strengthen policy implementation and supervisory mechanisms. Currently, a host of supportive policies can hardly be effectively implemented due to undefined responsible entities and vague enforcement procedures. While optimizing the existing policy system, governments at all levels shall build a standardized implementation-and-supervision framework featuring clear rights and obligations as well as operational procedures, so as to ensure that policy dividends truly benefit target institutions. The third is to institutionalize supportive policies. Core supportive measures covering land, finance-taxation and subsidies shall be gradually integrated into the national legal system. By formulating the *Social Organizations Law*, revising the *Law on the Protection of the Rights and Interests of the Elderly of China* and the *Land Administration Law*, and optimizing relevant tax laws, the government can significantly cement the authority, stability and continuity of the entire elderly care support system.

3. The government purchase of services model: An empowerment mechanism targeting the right to independent choice

The outsourcing of traditional public-service functions by governments through contractual arrangements and collaborative governance has become a global reform trend. In China, the establishment and expansion of contractual concepts are deemed a vital path to advance the reform of administrative rule-of-law and optimize public-service supply. Government procurement of elderly care services from social-service entities represents the concrete practice of such contractual governance ideas within the field of socialized elderly care. As a typical form of public-service outsourcing, it serves as a feasible realization mode for the privatization of elderly care services, and also empowers social organizations to play a positive role in the tripartite distribution, contributing their respective strengths to the pursuit of common prosperity. From a human rights perspective, the core value of government

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[72] Zhao Qinghang, "On the Establishment System of Private Non-enterprise Units: Taking Dual-licensing as the Research Object," *Research of Administration of NPOs* 9 (2011): 43.

[73] The *Decision of the CPC Central Committee on Several Important Issues of Comprehensively Deepening Reform* states: "We shall foster and give priority to developing social organizations of industry-associations and chambers of commerce, science and technology, public-welfare and charity, and urban-rural community-service types, which may directly apply for registration in accordance with the law upon their establishment."

[74] *Opinions of the General Office of the CPC Central Committee and the General Office of the State Council on Reforming the Social Organization Management System to Promote the Sound and Orderly Development of Social Organizations* provides: "Science-and-technology-oriented social organizations engaged in academic research and exchange activities in the fields of natural sciences and engineering and technology, as well as public-welfare and charity-oriented social organizations providing services for poverty alleviation, distress relief, elderly care, orphan support, patient assistance, disability support, disaster relief, medical aid and student aid, may directly apply for registration with civil-affairs departments in accordance with the law. Urban-rural community-service-oriented social organizations operating within communities to meet the living needs of urban and rural community residents may directly apply for registration with county-level civil-affairs departments in accordance with the law."

[75] It is noteworthy that the *Law on the Protection of the Rights and Interests of the Elderly of China* (revised in 2018) has abolished the establishment-licensing requirement for public-welfare elderly care institutions. Clause 1, Article 43 provides: "To establish a public-welfare elderly care institution, corresponding registration shall be completed in accordance with the law." By contrast, Clause 1, Article 44 of the earlier version of the same law (revised in 2015) stipulated: "To establish a public-welfare elderly care institution, an administrative license shall be applied for to the civil-affairs department of a people's government at or above the county level; upon obtaining such license, corresponding registration shall be completed in accordance with the law."

purchase of services lies in strengthening the elderly's right to independent choice. To be specific, government purchase of services can encourage social forces to develop more diversified and personalized elderly care service programs, to better meet the growing multi-level demands of contemporary elderly people and realize demand-oriented rather than supply-oriented universal human rights protection.

According to Article 2 of the *Government Procurement Law of the People's Republic of China*, government purchase of elderly care services essentially indicates that the government procures services from social-service organizations. The *Several Opinions of the State Council on Encouraging and Guiding the Healthy Development of Private Investment* (General Office of the State Council〔2010〕No. 13) stimulates private capital to participate in the development of social welfare undertakings, and specifically stresses that government procurement and other forms may be applied to support non-state actors in establishing various social welfare institutions. The *Opinions of the General Office of the State Council on Advancing the Development of Elderly Care Services* (General Office of the State Council〔2019〕No. 5) proposes to include elderly care services in the guiding catalogue for government purchased services. In recent years, governments at all levels have generally supported such procurement activities by setting up special fiscal funds. Starting from 2013, the Ministry of Civil Affairs has annually issued the *Implementation Plan for Central-Finance-Funded Projects Supporting Social Organizations in Participating in Social Services*. Up to 2025, elderly care services have been listed among central finance-supported projects for social organizations-led social services in most years. Besides, the *Guiding Opinions on Supporting the Cultivation and Development of Social Organizations via Government Purchase of Services* (Comprehensive Department of the Ministry of Finance〔2016〕No. 54) puts forward requirements to "support the cultivation and development of social organizations through government purchase of services," "guide the specialized development of social organizations, continuously improve their capacity for delivering public services, give play to the unique strengths of social organizations, and optimize public-service supply."

Practice has shown that government purchase of services not only helps improve the service capacity and expand the business scope of private non-profit elderly care institutions, but also facilitates the government's transformation into a purchaser and regulator, therefore optimizing the mechanism and quality of public-service supply. Moreover, the Ministry of Civil Affairs and the Ministry of Finance issued the *Notice on Implementing the Project of Granting Elderly Care Service Consumption Subsidies to Elderly People with Moderate to Severe Disabilities* (Ministry of Civil Affairs〔2025〕No. 37). The document pilots the provision of elderly care service consumption subsidies, funded by central and local fiscal resources, to eligible elderly persons with disabilities, and rolled out the program nationwide in December 2025. The elderly care service subsidy system further diversifies the forms of government procurement of services, strengthens the elderly's autonomy in service selection, and embodies the benefit-oriented institutional innovation.

Nevertheless, the government-purchase-of-services model still faces several institutional challenges in operation. On the one hand, the *Government Procurement Law* is mainly designed for the procurement of goods and projects, so the legal status and applicable rules for public-service procurement remain ambiguous. On the other hand, government purchase of services involves multi-party legal relationships,

requiring dual regulation of substantive and procedural norms to guarantee service quality and the rights and interests of the elderly. In current practice, prominent problems, like non-standard procedures, insufficient information disclosure, and imperfect supervision mechanisms, still persist. Particularly, unified procedural norms and legal constraints are lacking. Hence, it is imperative to establish a systematic and standardized system for government procurement of public services. Specifically, at the substantive level, the rights-and-obligations relationships among governments, social-service organizations and the elderly shall be clarified, and a contract management mechanism based on service performance shall be established. At the procedural level, statutory procedures covering planning and demonstration, public bidding, contract conclusion, performance supervision, performance evaluation and information publicity shall be formulated to promote open procedures, fair competition and impartial outcomes, and expand the scope and scale of services purchased from social-service organizations.[76] In the long term, the legal framework for public-service procurement shall be formulated during the revision of the *Government Procurement Law*, so as to realize the legalization and standardization of government purchase of elderly care services.

V. Conclusion: Toward a New Pattern of Human Rights Inclusive Elderly Care Services

Socialized elderly care services represent a public-welfare-oriented elderly care model established with the purpose of delivering universal elderly care services to all elderly people and realizing the autonomous expansion of human rights protection for the aging population. Featuring a non-profit nature, social embeddedness and value-driven orientation, this model fosters a tripartite supply structure of "government-market-society." Promoting the development of social-service organizations in the elderly care sector is neither intended to supplant the elderly care functions of the government and the market, nor to simply assemble services provided by the three parties. Instead, it is aimed at achieving their organic integration. On the one hand, social-service organizations can independently provide equal and high-quality elderly care services to more elderly people by participating in the third distribution. On the other hand, they can complement and effectively interconnect with government agencies and market entities to collaboratively deliver universal elderly care services. This generates comprehensive benefits of "1+1+1>3," eases the structural contradiction between demand and supply of elderly care services, and facilitates the building of a capable government and an efficient market.[77]

Admittedly, social-service organizations still face multiple structural bottlenecks in their participation in universal elderly care services, manifested prominently in difficulties concerning financial sustainability, insufficient supply of professional talents, inadequate supervision and imperfect evaluation mechanisms, as well as highly unbalanced regional development. Rather than occasional obstacles, these constraints are systematic problems embedded within existing institutional arrangements. Legal guarantee is indispensable for achieving the sustainable development of social-service organizations in the field of universal elderly care services. As a matter of fact, only institutional

[76] Bao Shaokun, "On Social Organization and Its Institutionalization," *China Legal Science* 1 (2017): 11.
[77] Shen Yongdong, Lai Yixuan and Gu Xin, "The Driving Logic and Mechanism Design of Social Organizations Promoting Common Prosperity — A Study Based on the Demonstration Zone for Common Prosperity in Zhejiang," *Governance Studies* 3 (2024): 93.

arrangements backed by national legal guarantees feature mandatory force, standardization, universality, and relative stability, and can form a relatively complete set of operational norms.[78] Constrained by the length of this paper, detailed discussions on the aforesaid specific issues cannot be provided, which await further in-depth research in the future.[79] It should be acknowledged that under the guidance of the goal of common prosperity, the collaborative participation of multiple actors will vigorously advance China's elderly care services toward more comprehensive, just, and equal inclusive welfare. Ultimately, it will help all elderly people enjoy the fruits of social development and achieve the human rights goal of free development in all respects.

(Translated by *JIANG Lin*)

[78] Xie Qiong, *Welfare System and Human Rights Realization* (Beijing: People's Publishing House, 2013), 92.

[79] In May 2026, the *2026 Annual Legislative Work Plan of the State Council*, issued by the General Office of the State Council, explicitly lists the draft *Elderly Care Services Law* as a prospective item to be submitted to the Standing Committee of the National People's Congress for deliberation. The prospective enactment of the *Elderly Care Services Law* will provide an important institutional opportunity for the multi-supply mechanism of socialized elderly care services, privatization approaches, and the rule-of-law guarantee for the inclusive human rights of the elderly discussed in this paper.