

For Rural Old-age Support Security Situation of Legal Thought to TongShan County as Respondents

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Abstract: The state council in 2009, 10% of the county (city, area) launched a new type of rural social endowment insurance pilot, and will realize the basic national within 10 years of rural society endowment insurance complete coverage. This will mean in China's rural endowment long way exists mainly family pension and savings endowment etc way, along with the development of society changes, and subject to a certain challenges. While the present rural elderly endowment present situation is not optimistic, only continue to consolidate and family pension mode and strengthening national pension investment combination, the traditional endowment moral idea and relevant legal old-age security system combining together, could let the old village old man old be raised, the old somewhat to spend a well-fed glut in old age.

Keywords: Rural Old-age Support Security; Traditional Endowment; Medical Insurance; Endowment Insurance; Law

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1. Problems of providing for the aged in rural areas

1.1 The current situation of the aged population in rural areas

In 2010, the “21st Century Forum” held by the CPPCC National Committee held a seminar with the theme of “institutionalizing the old age crisis into the old age bonus through the old age insurance system”. The meeting pointed out that the working population will begin to decline in 2015, the aging population will accelerate to rise, and it will not begin to decline until 2039. In other words, China's demographic dividend period is coming to an end. By 2039, there will be less than two taxpayers supporting one pensioner in China, which is known as the “crisis time point of aging society”. The problem of providing for the aged has become an important problem in China, and the problem of providing for the aged in rural areas is the difficulty and focus of the reform and innova-

tion of China's social security system. At the end of 2009, the total population of China was 1334.74 million, and the rural population was about 712.88 million, accounting for 70% of the total population53.4%. There are nearly 171.4 million people over 60 years old in China, of which nearly 60% are in rural areas.

1.2 The current situation and disadvantages of the current pension model

At present, the traditional ways of providing for the aged in China are mainly family, collective and savings. Family pension is based on the family. The family members are mainly young children. They provide financial support, life care and spiritual consolation for their elderly parents. Collective pension is a system in which the collective economic organization supports the old, sick and helpless. At present, the main form of collective pension in China is the "five guarantees system", which guarantees their food, clothing, housing, burning, burial (Teaching) and so on. Saving for the aged is one of the most typical self supporting ways, which means that the elderly rely on thrift.

At present, the level of rural economic development is relatively low, and the traditional pension has been in crisis. In 2009, the per capita net income of rural residents was 5153 yuan, an increase of 8.5% over the previous year, excluding price factors; the per capita disposable income of urban residents was 17175 yuan, an increase of 9.8%. The proportion of food consumption expenditure of rural households in total consumption expenditure was 41.0%, and that of urban households was 36.5%. According to the rural poverty standard of 1196 yuan in 2009, the rural poverty population was 35.97 million at the end of the year.^[3] Compared with the whole country, at the end of 2009, the net income of rural residents in Tongshan County was 3141 yuan, and the Engel coefficient of rural residents was 0.569, which was significantly lower than the national average annual level. The economic level restricted the sustainable development of the traditional pension model. Compared with other regions in China, the proportion of self labor income of the elderly over 60 years old in Hubei Province reached 57.2%, 7.1 percentage points higher than the national average. This shows that in the traditional way of providing for the aged, the proportion of self support of the rural elderly in Hubei Province is significantly higher than that of the whole country, and the survey found that in some economically underdeveloped mountainous counties in Hubei

Province, the proportion of self support of the rural elderly is higher. According to the survey of Changyang County, 73.4% of the rural elderly in the county meet their basic living needs by their own income, 69.2% of the elderly are paid by their spouses when they are sick, and 48.6% of the elderly are taken care of by their spouses when they are sick. Even some of the elderly living with their children are not financially supported by their children. ^[4]The basic situation of Tongshan County in Xianning City is similar to that of Changyang County. The basic living expenses of the elderly have their own expenses. In the local survey, we found that nearly 40% of the elderly rely on themselves for living expenses, and 64.6% of the elderly think that the biggest obstacle to the current pension security is the income level. When we were investigating in jingwan village, Tongyang Town, Tongshan County, an old man told us that the reason why he was still working to support his living expenses was not that his children were not filial, but that their children had difficulties in their own lives and could not support all kinds of expenses at home.

The socialized pension service in rural areas is not perfect. While the traditional family members are facing difficulties in caring for the elderly, the social pension service system in rural areas of Hubei Province has not been established and developed. Just because the social pension service institutions in rural areas are not developed, the pension institutions and facilities that can accept the elderly are also very limited. Although Hubei Province in order to accelerate the development of private pension institutions, 2004-2007 In, the relevant departments of Hubei Province successively issued the measures for private public assistance of social welfare institutions in Hubei Province, the guiding opinions for public and private social welfare institutions in Hubei Province, and the opinions on accelerating the development of elderly care service industry, and issued a number of preferential policies in the development of financial support, land use, taxation, employment and other aspects of elderly care institutions. ^[5] However, we found that rural social welfare, government subsidies and a series of inputs are seriously insufficient. The welfare and relief system of rural social security in China is mainly undertaken by the collective economy, while the rural economy is relatively weak. The same is true in the survey of Tongshan County. As of 2010, there

were 17 community service facilities in Tongshan County. There are 1 social service center, 14 kinds of adoptive welfare homes, and 1458 beds, which are far from meeting the current demand.

2. Rural endowment insurance system

2.1 The current situation of new rural medical insurance

The rural medical insurance refers to the “mutual medical assistance system for farmers, which is organized, guided and supported by the government, and financed by individuals, collectives and the government in many ways, and mainly based on the overall planning of serious diseases”. The goal of rural medical insurance is to solve the problems of expensive and difficult medical treatment for farmers, and to prevent poverty caused by illness and returning to poverty due to illness, which is also the connotation of policy objective benefit. At present, 2716 counties (cities, districts) have carried out the work of new rural cooperative medical system, accounting for about 94.0%. The pilot project of new rural social endowment insurance was successfully launched. ^[6]At present, the total population of Tongshan County is 457000, 395000 of them have participated in the rural cooperative medical insurance, and the participation rate is 86.43%. Rural medical insurance is a universal public product provided by the government to the countryside. The policy intention is that all farmers can actively participate in it. However, due to the principles of voluntary participation and proportional sharing of medical insurance fund, some farmers show a wait-and-see attitude. ^[7] During the investigation in Tongshan County, we found that due to the principles of voluntary participation and proportional allocation of medical insurance fund, nearly 10% of the farmers are unwilling to participate in medical insurance, and some farmers feel trouble and do not participate in medical insurance.

2.2 The current situation of new rural endowment insurance

In the 2009 government work report, Premier Wen Jiabao pointed out that we should take ensuring and improving people’s livelihood as the starting point and foothold of economic work. The more difficult it is, the more attention we should

pay to people's livelihood and promote social harmony and stability. China is still in and will be in the primary stage of socialism for a long time. Only when it starts at a low level can it adapt to the actual situation of the vast rural areas and truly realize the universality of system coverage. At the end of 2009, China's total population was 1334.74 million, an increase of 6.72 million over the end of last year. Among them, the population over 60 years old accounted for 167.14 million, accounting for 12.5% of the total population.^[8] According to the relevant international standards, China has entered the aging society. With the development of rural economy and the implementation of family planning policy, the scale of peasant families is declining, the function of family support for the aged is weakening, the function of land security is weakening, and the problem of providing for the aged in rural areas is becoming increasingly serious. The reality of China's rural social development urgently needs to establish the corresponding social security system to solve the problem of farmers' pension.^[9] At present, 9028 people in Tongshan County of Xianning City participate in social endowment insurance, and nearly 74% hope that the state will introduce new policies to reduce the pressure of traditional endowment insurance.

We should explore the establishment of rural endowment insurance system. The "decision" of the Third Plenary Session of the 17th CPC Central Committee put forward: "according to the requirements of combining individual payment, collective subsidy and government subsidy, a new rural social endowment insurance system should be established." The new rural social endowment insurance, known as the "new rural insurance", is another major agricultural policy after the abolition of agricultural tax, agricultural direct subsidy, new rural cooperative medical system and other policies. The combination of individual payment, collective subsidy and government subsidy will be adopted, in which the central finance will subsidize local governments and directly subsidize farmers. The new rural old-age insurance system draws lessons from the current mode of unified accounting for urban workers. Hu Xiaoyi, Vice Minister of the Ministry of human resources and social security, said that the payment structure of the new rural endowment insurance is divided into two parts: basic pension and individual account pension. The basic pension is fully guaranteed by the state finance, which means that Chi-

nese farmers will enjoy the state pension after the age of 60. However, Hu Xiaoyi stressed that the new rural insurance to be launched soon is still in the pilot stage, “the new rural insurance policy should be gradually implemented after the pilot improvement, not that everyone can get money from tomorrow.” According to the plan, all farmers will enjoy the new rural social security by 2020. In Tongshan County, we found that more than 90% of the respondents affirmed the new rural old insurance policy and hoped that the policy could be implemented in Tongshan County as soon as possible.

3. The improvement of rural old age security system

3.1 On the improvement of rural old age security system

We should combine the rule of virtue with the rule of law. Our nation has always been a nation with the tradition of respecting the elderly. Vigorously carrying forward this traditional virtue is conducive to the continuation and consolidation of the traditional way of providing for the aged. According to the statistics of China Bureau of statistics, only 1% of the elderly people in China are willing to go to nursing homes. In the survey of Tongshan County, Xianning City, only about 2% of the elderly people interviewed are willing to go to nursing homes. Nearly 60% of the elderly would like to live with their children, and about 38% would like to live with their wife or alone. Moreover, many children think that if their parents go to the nursing home, they are suspected of abandoning their parents. In today’s materialistic society, there are many children who lack morality, so it is in line with the needs of the times to carry forward traditional virtues. At the same time, we should strengthen the propaganda of traditional concepts, and also strengthen the legal construction of the traditional pension, so that the traditional way of pension has the law to follow.

In 2009, the per capita net income of farmers in Tongshan County reached 3141 yuan, a year-on-year increase of 10.1%. The development of rural economy and the improvement of farmers’ income have laid an economic foundation for the establishment of rural social security for the aged, provided the conditions for

the start of the social security system for the aged, and laid a good economic foundation for collective pension 65% of the people think that the biggest obstacle affecting the quality of old-age care and rural endowment insurance is the level of family income, so the development of rural economy is the material basis to improve the affordability of rural endowment.

Implement the relevant policies of rural old-age security. At present, the state stipulates that farmers will enjoy the national inclusive pension after the age of 60, which is the new rural endowment insurance. In the past, the endowment insurance was paid by the farmers themselves, while the new endowment insurance is a combination of individual payment, collective subsidy and government subsidy. The subsidy from the central government to the local governments is directly given to the farmers. There are two parts in the payment structure of the new farmers' pension insurance: one is the basic pension, the other is the pension of personal account, and the basic pension is fully guaranteed by the state finance. Therefore, the implementation of the relevant national policies on rural old-age security is an important way for the majority of farmers to rely on and support the elderly.

3.2 Related legislation of rural old age security in foreign countries

Aristotle, an ancient Greek thinker, once said, "law is order. Only with good law can there be good order." Only the promulgation of the rural old-age security law can better establish the rural social old-age security system. It has been more than 100 years since Germany established social insurance system in 1883. In 1951, Germany promulgated the "farmers' old age security law", which is the first step to establish an independent rural social security system. In 1957, Germany began to implement the law of farmers' assistance for the elderly, that is, to give cash subsidies to the elderly farmers who have handed over their farms to their heirs. Through the way of supporting the elderly farmers, the farmers were formally included in the national social security system. The agricultural social reform law, which came into effect on January 1, 1995, changed the name of farmer's old age assistance to farmer's old age security, greatly reformed the farmer's old age insurance, and classified the farmer's old age security into the field of social insurance. ^[10]

In 1959, Japan promulgated the national pension law, which adopted the method of sharing by the state, industry and individual, and forced all Japanese aged 20 to 60 to participate in the national pension system. In 1963, the Japanese government launched the welfare law for the elderly, which advocates the protection of the overall interests of the elderly. In 1982, the “health care law for the elderly” was issued to comprehensively promote health care facilities for the elderly, which made the focus of Japan’s welfare policy for the elderly begin to shift to the direction of home-based care and care. It is these three laws that support the welfare system of the elderly in Japan.

In 1935, the United States passed the social security act, which is the first law with this name in the world, which means the final formation of the social security system. It is the first law in the world to comprehensively and systematically regulate social security, which involves social insurance, social welfare and social assistance. On January 1, 2002, Russia implemented the reform of the pension system through legislation throughout the country, from the previous pension social overall planning to the combination of social overall planning and pension insurance.

3.3 Legislation and perfection of social security system in China

In October 2010, as a supporting law in the legal system of socialism with Chinese characteristics, the social insurance law (Draft) was submitted for the fourth time for deliberation and passed by vote. The “social insurance law” has improved the relevant provisions on enjoying pension insurance benefits, made it clear that the settlement system of medical expenses for medical treatment in different places should be established, and emphasized the security of social security fund and the information security of employers and individuals. It also plays a pioneering and exemplary role for the introduction of other social security related laws, which is of epoch-making significance.

Making a good law is an important guarantee for rural old-age care. We must actively explore the problem of rural old-age care and have laws to follow. To pay attention to and solve the basic living security problems of nearly 100 million rural old people, and to establish and develop the rural old-age security system is on the one hand, the state only gives policy support, which is “it is difficult for a

skillful woman to cook without rice”. The establishment of the rural old-age security system needs more financial support, but without the mandatory law, the rural old-age security is just like a blank check. Only through legislation to make up for the lack of legal regulation of financial payment of rural old-age security, clear the smoothness of rural old-age security fund channels.

At present, many countries have formulated the relevant laws of social security for the aged, which can provide some reference for China’s social security legislation. We can draw lessons from foreign countries, based on China’s basic national conditions, from the urban-rural dual system, formulate a series of laws and regulations of social security system with Chinese characteristics. Since the Second World War, Japan’s rural endowment insurance system has been legislated first and implemented later, which makes the rural endowment insurance system legal, scientific and standardized. Our country can draw lessons from it to a certain extent, first legislate and then implement it, so that the social pension security system can have laws to abide by.

The particularity of the legislation of social security system in China and the dual structure of urban and rural areas also bring some difficulties to the unified legislation of social security system. In view of the special situation of China’s rural social insurance, such as endowment insurance can not be consistent with the urban endowment insurance legislation, the rural social insurance should adopt separate legislation. The content of rural social security legislation is closely related to the content of social security system. Learn from the experience of social security implementation in western developed countries, choose the social security system suitable for our country, determine the legislative mode of social security in our country, fix the long-term successful experience accumulated in the development of social security in the form of law as soon as possible, and actively formulate the social security law in advance according to the needs of economic development, so as to provide stable support for the construction of socialist harmonious new countryside We should establish a harmonious legal environment.

The legislation of China’s social security system is of great significance. Through legislation to clarify the relationship between the rights and obligations of the main body of the social security system, so that the social security system

has the law to abide by, the law must be abided by, strong social security related legislation is an important guarantee for the new rural social security system. On the basis of learning from foreign endowment insurance legislation theory, according to the specific national conditions of our country, we should establish the endowment insurance legislation system with Chinese characteristics. We should guarantee the social status of rural social endowment insurance system with laws, clarify the nature, standards and supervision rules of endowment insurance and rural medical insurance with laws, regulate the rights, obligations and responsibilities of the insured and managers with laws, and provide a good legal atmosphere for the implementation of rural endowment insurance system through relevant legislation.

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