

The Digital Rights and Interests of the Elderly and Their Legal Protection

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Abstract: As digitalization advances, safeguarding the digital rights of the elderly is a growing concern. This paper examines legal measures to protect elderly rights in the digital age, using literature review and case study methods, with data from legal documents and national statistics. The elderly have obvious disadvantages in the application of digital technology, which not only hinders their ability to benefit from the achievements of the digital society but poses a challenge to achieving universal digital inclusion. In addition, this paper proposes an improvement plan from a legal perspective, aiming to improve the digital literacy of the elderly and narrow the digital divide through technological innovation and scientific popularization. In short, ensuring the digital rights of older adults requires a joint effort from the government, society, businesses, and families, including strengthening the rule of law, optimizing the policy environment, and promoting age-friendly technology. Such measures are essential for effectively improving the digital quality of life for older adults, helping them integrate better into the digital society, and enjoy its benefits

Keywords: Digital Rights, Rights and Interests of the Elderly, Legal Protection, Digital Inclusion.

1. Introduction

In the context of the digital age, the elderly in China face challenges in protecting their digital rights. As the aging process accelerates, they encounter numerous difficulties in accessing the benefits of digital technology, which not only affects their enjoyment of social development achievements, but also challenges social equity. This research, via literature and policy analysis, explores enhancing elderly digital rights protection via legal avenues. It reveals that while China's laws acknowledge the digital rights of seniors, they tend to be general, lacking practical enforcement. To ameliorate this, legal strategies must be proposed, such as bolstering digital education, elevating seniors' tech literacy, and fostering smart product designs tailored to the elderly for easier smart device usage. Collaboration across government, society, business, and families is essential for bolstering legal systems, refining policy settings, and developing senior-friendly tech. Such joint efforts are vital for enhancing seniors' digital quality of life, societal integration, and digital economy engagement, ensuring their rights are protected and promoting a fairer digital society.

2. Overview of the Phenomenon of Digital Weakness of the Elderly

By June 2022, China's internet user base reached 1.051 billion, yet 41.6% of seniors over 60 remain unconnected, underscoring their digital divide. Elderly digital vulnerability denotes the elderly's disproportionate struggle with accessing, utilizing, and grasping digital tech amid swift societal digitization. The digital rights and interests of the elderly mean that the elderly have equal access to information, services and participation in social activities in the digital society, including the ability to access and use digital tools for communication, learning, work and entertainment. At present, many elderly people face obstacles to using digital technology in the use of digital technology, such as unfamiliarity with smart devices, difficulty in identifying network information, and difficulty in adapting to emerging technologies, which puts them at a disadvantage in terms of accessing to health information, online services and social interaction. Such problems have arisen in online shopping, which is closely related to people. On shopping software and live broadcast platforms, poor supervision has led to frequent problems of false propaganda and shoddy goods. The complex process of safeguarding rights and the cumbersome channels of complaints have become a difficult problem for the elderly to safeguard their rights. The lack of consideration of the characteristics of the elderly in the rules of online transactions makes them often choose to endure when their rights and interests are infringed, which aggravates their resistance to digitization. In the virtual world brought about by the Internet, data will have increasingly important commercial value and create a new business form [1-2]. The digital vulnerability of the elderly is intensifying amidst societal digitization, impacting their well-being, health, safety, and social engagement. This also widens social disparities, sidelining seniors in the digital era.

3. The Lack of Legal Protection in Protecting the Digital Weakness of the Elderly

3.1. Technological Progress and Legal Lag

The rise of the digital society, fueled by technology, presents new challenges to the legal system due to shifts in human thought and behavior. This can create regulatory gaps, which some tech firms and platforms exploit for swift, unorthodox growth, outpacing traditional legal frameworks. Driven by interests, information control enterprises or individuals often use the existing “information advantage” to widen the gap with competitors, or even artificially create barriers to acquisition, intentionally disseminate false information, and subjectively cause “non-normal information asymmetry” [3]. For example, the online car-hailing platform disrupts the market order through a malicious low-cost subsidy strategy, resulting in a tight offline supply of transportation services, which not only affects the travel rights of the elderly, but also makes it difficult for those in “digital poverty” to adapt to the rapid changes in lifestyle [4].

3.2. Lack of Protection at the Level of Departmental Law

In the current legal system of China, there are still many deficiencies in the direct protection of the rights of the elderly in the era of intelligent science and technology in the three branches of criminal law, civil law and administrative law. At present, these laws focus on the traditional protection of the basic rights of the elderly, rather than on the specific needs of the digital age. Although there are provisions for infringement of personal information, the *Criminal Law* does not specifically address infringement of the digital rights of the elderly. Article 1034 of the *Civil Code* stipulates that the personal information of natural persons is protected by law. It provides protection for personal information and also indirectly stipulates the family's obligation to support the elderly, but it does not provide special legal provisions for the elderly in a disadvantaged position. In the field of administrative law, *Opinions on Strengthening the Work of Aging in the New Era* emphasizes the

promotion of Internet applications and mobile terminals commonly used by the elderly to solve the difficulties encountered by the elderly in the use of intelligent technologies. However, it is overly general and lacks specific and effective measures. The lack of clear provisions on the protection of the rights and interests of older persons in the era of smart technology at the three legal levels has led to fragmented and unclear legal protection, making it difficult to effectively restrain actors and give full play to the benefits of protection. The frequent infringement of the rights and interests of older persons, some of which do not even require the active behavior of others, reflects the lack of legislative protection in the era of smart technology.

3.3. Lack of Protection at the Level of Special Law

The *Law on the Protection of the Rights and Interests of the Elderly* has deficiencies in protecting the digital rights and interests of the elderly, which are mainly reflected in two aspects :

First of all, the law fails to fully emphasize support for the integration of the elderly into the digital society. Different from the special chapter of the *Law on the Protection of Minors* to protect the network rights and interests of minors, the *Law on the Protection of the Rights and Interests of the Elderly* does not make clear provisions on the network rights and interests of the elderly, and the problem of network rights and interests infringement faced by the elderly is actually more serious. Secondly, although the family plays a key role in helping the elderly to integrate into the digital society, the provisions on “family support and assistance” in the *Law on the Protection of the Rights and Interests of the Elderly* are too principled, mainly involving the rights of support, property inheritance and family guardianship, and lack of specific compulsory requirements for the family in guiding the elderly to re-employment, re-education and integration into the digital society. In formulating relevant laws, legislators only take into account the basic living needs of the elderly, while ignoring the digital information rights of the elderly. In addition, although the *Data Security Law* implemented on September 1, 2021 aims to standardize data processing activities and ensure data security, its Article 15 sets out the principle that the needs of older persons should be taken into account in the provision of intelligent public services, so as to avoid interfering with their daily lives. However, it lacks concrete implementation measures and is rather abstract in content.

4. The Necessity of the Rule of Law to Protect the Digital Rights and Interests of the Elderly

4.1. Theoretical Necessity

In the digital era, the imbalance of information rights and interests faced by “digitally vulnerable groups” is essentially a conflict between “technology claim” and “technology empowerment.” This conflict is not only related to the allocation of resources, but also to the basic rights and obligations of citizens, especially the protection of the dignity of the elderly. Therefore, the regulation and protection of the legal level is particularly important. From the perspective of basic attributes, the object of legal relationship has three minimum conditions, that is, it must be an item that is useful and valuable to the subject; it must be controllable by the subject; and it must be a “thing-in-itself” that can be separated from the subject [5-6]. The information rights and interests of the elderly meet three basic conditions. Firstly, it is useful to the subject; secondly, it is controllable by the subject; finally, it can be separated from the subject in cognition. From the perspective of the shaping of emerging rights, the legal protection of the information rights and interests of “digitally vulnerable groups” also conforms to the basic elements and ethical elements of the generation of rights [7-8].

4.2. Practical Necessity

The information rights and interests of the elderly need to be guaranteed by legal enforcement means. The law should provide equal rights protection for all citizens, so as to ensure that the elderly will not be unfairly treated due to age differences in information rights and interests. The legal provisions need to provide clear definition of rights and distribution of obligations, so that the information rights and interests of the elderly can be enforced. Once the rights and interests are infringed, they can be relieved through legal channels. Concurrently, leveraging the law's coercive power is crucial to preempt infringements. Defining legal liabilities deters potential violators and upholds elderly rights, fostering social equity and justice.

In the judicial field, the application of the algorithm enhances the ability to handle disputes, reduces costs, and improves the level of automation. However, many elderly people still find it difficult to adapt to online trial methods such as smart justice. Although the government and the Ministry of Justice have begun to explore judicial services to meet the needs of the elderly, the implementation of these services still faces many problems due to the limited resources of grassroots judicial organs. The popularization of the law on the protection of the digital rights and interests of the elderly will also raise the awareness of the importance of the information rights and interests of the elderly, which can guide the community to respect and protect the legitimate rights and interests of the elderly. With the development of technology and social changes, laws can also be constantly updated to adapt to emerging issues and ensure that the protection of the information rights and interests of the elderly keeps pace with the times.

5. Measures to Protect the Digital Rights and Interests of the Elderly by the Rule of Law

5.1. Improvement of the Relevant Provisions of the Department Law

To bolster the legal rights of the elderly in the smart tech era, legislation across criminal, civil, and administrative law must be enhanced to create a sound legal framework for their protection. With criminal law as the guarantee of the rights and interests of the elderly, relevant laws should be adopted to curb online fraud targeting the elderly, focus on combating abuse of the elderly, and supplement other legal protections when necessary. To enhance the elderly's digital rights within civil law, the *Civil Code* must explicitly outline their rights, such as personal data protection and internet privacy. In addition, it should detail how they can control their information, access online services, and use digital content. The law should set out conditions and procedures for exercising these rights, with additional support for overcoming common challenges like low tech literacy and reduced learning capacity. It is also necessary to strengthen the liability clauses, increase the legal liability for infringement of the digital rights and interests of the elderly, and clarify the subject, scope and consequences of infringement liability. Infringing acts against elderly digital rights, such as unauthorized data collection and scams, are clearly defined. Legal accountability includes restitution and cessation of harm, with punitive damages for intentional or grossly negligent violations to deter such acts. The burden of proof for elderly victims should be eased, or a fault presumption principle adopted, to make infringers bear more proof responsibility. Within contract law, special emphasis should be placed on protecting the rights of older people to use digital services, clarifying their contractual rights and specific details of service provision, such as simplified interfaces and comprehensive guidance. Service providers must clearly disclose contract terms and costs to ensure the elderly can make informed decisions. Additionally, engaging social forces, like organizations and volunteers, to offer consultation and mediation services can support elderly digital service adoption.

5.2. Improvement of the Legislative Content of Special Laws

In alignment with the *Law on the Protection of the Rights and Interests of the Elderly*, various regions have tailored regulations to safeguard senior rights, reflecting legislative dedication to their welfare, especially in the digital age. Yet, while these laws prioritize basic rights, they fall short in addressing the nuances of safeguarding seniors in the era of intelligent technology. Recognizing education's pivotal role in bridging the digital divide for the elderly, it's essential to emphasize their right to continuing education within the *Law on the Protection of the Rights and Interests of the Elderly*. The state should integrate senior education into lifelong learning systems and endorse diverse educational initiatives for them. Furthermore, supporting the development of user-friendly intelligent products and services, characterized by features like large fonts and intuitive interfaces, will facilitate seniors' engagement with and mastery of new technologies. The *Network Security Law* aims to ensure the security of information and data on online platforms, providing legal protection for the personal information and rights to be informed of older adults in the digital age. Given the susceptibility of the elderly to fraud due to their unfamiliarity with electronics, the law must address their specific needs, define regulatory responsibilities, and employ proactive measures to prevent such incidents. The Ministry of Industry and Information Technology must audit and document the information infrastructure on the network platform. Local IT companies and service providers, along with their respective executives, are required to register their actual names with the Communications Regulatory Authority and undergo security assessments. These assessments are designed to verify the legitimacy of the entities in question and to clarify their respective responsibilities. At the same time, telecom regulators should pay close attention to the content of the information infrastructure and how network service providers collect and use user data, with particular attention to safeguarding the fundamental rights of older persons. And the Ministry of Information and Communications should sanction these practices to guarantee legality, appropriate intent, and the protection of the elderly's digital data and their right to informed consent.

5.3. Enhanced Regulation by Governmental Supervisory and Administrative Means

To enhance the digital literacy of the elderly, it is recommended that the government integrate science and technology education into community and geriatric education policies. This can be achieved by leveraging community resources, educational facilities, libraries, family support, and the initiative of older persons to develop digital skills. Open universities should innovate educational approaches and provide age-tailored multimedia courses. Community centers and senior institutions must provide training in smart tech for transportation and healthcare to boost elderly social inclusion. Families, especially younger members, should assist seniors with digital media. Libraries should provide digital resources for learning. Companies should design elderly-friendly smart products, offering training and classes in rural and underdeveloped regions. This will enhance seniors' tech literacy, allowing them to fully benefit from digital society.

Governments can establish community-based social work organizations to enhance elderly digital literacy and advocate for their digital rights using evidence-based practices. Social support theory suggests that seniors should build robust networks of family, friends, and community to swiftly access assistance and advice for digital challenges. Only the cooperation of the state, society and family can really make the elderly overcome loneliness and truly make the elderly return to society [9-11]. Families and community digital training are vital for teaching seniors smart device use. Emotional support is key to mitigating the confusion, anxiety, or frustration they might experience with digital tech. Sharing experiences and feelings can emotionally bolster seniors, boosting their confidence and drive to surmount digital hurdles.

To shield the elderly from digital harm, an administrative framework for their tech use is recommended. It should include pre-emptive risk assessments and interventions, paving the way for future tech regulation and accountability. Drawing from the algorithm filing system as per the *Guiding Opinions on Strengthening the Comprehensive Management of Internet Information Service Algorithms* by the Cyberspace Administration of China and other departments, the filing of algorithms should be promoted. This includes establishing a tiered classification system, clarifying the filing scope, and making the filing status public to allow social supervision. This provides a basis for regulators to assess, trace, and verify algorithms. For entities like educational institutions and social service organizations established for the elderly, strict filing should also be enforced. Government departments should supervise market entities' operations, train and manage service personnel, and minimize potential violations in the service provision process for the elderly. Besides, developers are encouraged to adopt a user-participatory R&D model to allow the elderly to participate in the development of digital technologies, ensure the products are suitable for the elderly and practical, and avoid the emergence of “pseudo-elderly-friendly” applications.

6. Conclusion

In the process of rule of law construction, ensuring the information rights and interests of “digital vulnerable groups” not only highlights the essence of social justice, but also the inherent requirement of the modernization of national governance. Correctly understanding and treating this group, regulating the behavior of public power and large data operators, and ensuring the fair distribution of digital dividends are essential for the realization of constitutional values and the protection of citizens' basic rights. However, the risk of “generalization of rights” should also be guarded against to ensure that the digital rights and interests of the elderly are protected within a reasonable range. The legal means to protect the digital rights and interests of the elderly are not achieved overnight, which requires continuous improvement of laws, regulations and policy measures according to the actual needs of the elderly.. Strengthen legal education, improve the legal awareness and rights protection ability of the elderly, and ensure that they can fully enjoy the convenience brought by digitization. Legal means are of great significance for safeguarding the legitimate rights and interests of the elderly and promoting the inclusive development of the digital society. Relevant legal means should be actively explored and improved to create a safe, convenient and friendly digital living environment for older persons.

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