

Research on Preconception Protection of Fetus in China: Reflections on Article 16 of the Civil Code

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Abstract: With technological advancements, risks in modern society are increasing, and issues such as syphilis, HIV, genetic defects pose threats to the fetus before conception. However, current legislation only provides remedies for damage to the interests of the fetus after conception, without addressing harm to prenatal interests. Judicial practice has also not delved into this matter. By comparing the ways other countries protect fetal interests before conception, China can, based on its practical situation, establish legislation to protect the interests of the fetus before conception. This legislation should clarify the relevant rights subjects, rights content, time of rights exercise, etc., and further improve legislative protection for life, respecting the value of life.

Keywords: Personal interests, Fetal interest protection, Preconception interest protection

1. Introduction

Conception is an inevitable stage in the creation of life. From the moment of conception, the embryo undergoes formation, and barring any unforeseen circumstances, it develops into a complete human being. However, unfortunate incidents before conception can significantly impact the legitimate rights and exercises of a fetus as an equal life after conception and even after birth.

From the perspective of protecting the legal interests of life, safeguarding the interests of the fetus before conception is essentially identical to protecting the interests of the fetus. Taking an example where a fetus becomes infected with the HIV virus due to improper blood transfusion in a hospital before conception, the infection of the life at conception is an inevitable result of the viral infection before conception. Why then hinder the causal relationship between the wrongful act and the resulting harm? Therefore, the protection of the interests of the fetus before conception is essentially the protection of the legal interests of the fetus's personality, extending to the protection of the fetus's physical health. Any hindrance or deprivation of natural growth is an infringement of the right to life. Therefore, the legal interests and rights that a fetus, harmed before conception, possesses in relation to life should not cease to exist merely because the law has not explicitly stipulated them. Although the capacity for rights in humans begins at birth, it is not stipulated that the existence as a biological entity begins only at birth. The harm inflicted on a biological entity before conception will continue to have adverse effects after conception. Only by emphasizing the protection of the interests of the fetus before conception can the theoretical framework for the protection of fetal interests be more

perfected. This is crucial for truly safeguarding the dignity of life, as the value of the dignity of life is absolute, and the inherent value of human dignity is inviolable.

On the other hand, extending the protection of fetal interests to before conception also aligns with China's basic fertility policy. In July 2021, the Central Committee of the Communist Party of China and the State Council issued the "Decision on Optimizing Birth Policies to Promote Long-Term Balanced Population Development" (hereinafter referred to as the "Decision"). The "Decision" proposes, "Optimize birth policies and implement the policy that a couple can have three children"[1]. This is a significant measure to further optimize fertility and reproduction. The "Decision" also emphasizes the prevention and control of birth defects, promoting pre-pregnancy and prenatal health checks. Strengthening the protection of the fetus before conception is a legal norm within the framework of the three-child policy, in line with the institutional logic of current policies for optimizing fertility and reproduction. It aims to combat behaviors that may result in defects at the time of conception. The "Mother and Infant Safety Action Enhancement Plan (2021-2025)" further proposes strict implementation of comprehensive prevention and control measures for mother-to-infant transmission of HIV, syphilis, and hepatitis B. It emphasizes comprehensive management throughout the entire reproductive cycle from pre-pregnancy to pregnancy, delivery, and postpartum[2]. Adverse pregnancies can impose a heavy burden on families in terms of medical expenses and economic pressure, potentially leading to individual families falling back into poverty and shaking public confidence in reproductive security. Therefore, the central government continues to attach great importance to pre-pregnancy safety assurance. Standardizing legal protection for the fetus before conception, endowing it with remedies for harm suffered before conception, is beneficial for implementing health policies for pre-pregnancy security from a legal perspective.

2. Research Status on Protection of Fetus Before Conception

2.1. Overview of Foreign Research

The study of protecting the fetus before conception in Western academia began early and was mainly concentrated in Germany. As early as the 1980s, scholars started paying attention to issues related to the harm of the fetus before conception. The thalidomide sedative incident triggered waves of discussions on the protection of the fetus before conception in the legal community. Christian von Bar believed that harm to the fetus "may even occur before pregnancy," affirming the viewpoint that the interests of the fetus before conception are worthy of protection[3]. Dieter Medicus proposed that whether the victim has been born or conceived at the time of the harmful act is irrelevant from the perspective of tort law, and victims have the right to claim damages[4]. Literature on this topic includes works like Haerderich's "Protection of the Unborn from Torts," Zelp's "Harm to Those Before Birth—An Issue of Rights Capacity?" and Stolz's "On Tort Liability for Health Damage Before Birth." These works explore the question of whether the victim has not yet conceived at the time of the harmful act and whether the victim can hold the perpetrator liable when the victim has legal capacity. In the West, the protection before conception is mainly based on tort law, clearly outlining the legal remedies for harm before conception. Foreign research on the protection before conception generally concludes that the right to claim damages for harm caused by external actions at the time of conception or even before conception is valid. The right to claim damages is not contingent upon the establishment of harm at the time of occurrence; otherwise, there would be no remedy for harm suffered before conception.

2.2. Overview of Domestic Research

In China, research on the protection of the fetus before conception is mainly concentrated in the field of civil law. The main monograph on this issue is Professor Wang Zejian's "Personality Rights Law:

Legal Exegesis, Comparative Law, Case Studies.” The book extends protection to the harm suffered before conception and demonstrates the causal relationship determination for protection against harm before conception using case studies. For example, negligence in a hospital leading to a pregnant woman being infected with a virus through blood transfusion before conception, subsequently transmitted to the fetus during pregnancy, constitutes harm to the fetus’s physical health[5]. Some scholars in mainland China believe that harm to the fetus often occurs after the mother conceives but also acknowledges situations where harm occurs before conception[6]. Others believe that harm to the pregnant mother and harm to the fetus have a sequential order, and “in certain special situations, even if the fetus does not yet exist, it cannot be considered that the harmful act is not established”[7].

Currently, mainstream viewpoints in China regarding the protection of fetal interests include the extension of personality rights protection, the protection of the right to life, and the capacity to exercise civil rights. However, none of these theories discuss the issue of protection before conception; they only focus on the infringement issues during the fetal stage. At present, there is little research conducted by Chinese civil law scholars on the protection before conception, with very few research outcomes. Existing research is also somewhat superficial, briefly mentioning protection before conception without in-depth analysis of the sources of harm before conception, specific models of protection before conception, and the entities asserting rights before conception. The protection of the fetus before conception has become a neglected area in Chinese civil law. In summary, using the elements of tort liability as a fundamental analytical tool and adopting the perspective of protection before conception to analyze and construct a protection model before conception in China is the focus of this paper and represents its uniqueness and value.

3. Experiences and Insights from Foreign Jurisdictions

3.1. Germany

In Germany, according to Section 844(2) of the German Civil Code, if the person responsible for maintenance has a compensatory obligation due to a wrongful act resulting in death, the dependent person has the right to claim damages. According to the second sentence of this provision, even if the fetus has not yet been born at the time of the harmful act, but conception has occurred, the fetus also has the right to claim damages[8]. Section 1923(2) stipulates that a fetus can be considered an heir even if it has not yet been born at the time of inheritance[9]. These provisions only involve the protection of fetal interests but do not extend protection before conception. Although the German Civil Code does not explicitly provide for protection before conception, the argument in the BGHZ 58.48 case referred to the Atomic Energy Act of 1959, stating that the term “person” in this statute includes those who have suffered health damage even before birth or conception[10].

German judicial practice also addresses the protection of harm before conception. In German cases, harm before conception can be attributed to two sources: the wrongdoers being the parents of the victim or third parties outside the parents. In cases such as NJW 1950, 388 (the biological father transmitting syphilis to his son) and BGHZ 8, 243 (hospital blood transfusion case), the courts recognized the protection of the fetus before conception, supporting the plaintiff’s right to compensation. German legal cases do not explicitly differentiate between harm caused by parents and harm caused by third parties. Still, German scholars have provided relevant insights into parental liability for infringement. Zelp believes that the limits of parental liability need to consider the basic principles of the German legal order, filling gaps as needed. If parents are responsible for harm to their children for reasons other than intentional negligence, they should be held accountable. However, Stolz believes that, apart from intentional acts by parents, it is difficult to determine the boundaries between legal and illegal actions regarding harm to the fetus. Generally, only intentional actions should be held accountable in matters of fetal harm[11].

3.2. United States

In the late 19th century, the United States had numerous precedents on prenatal injuries, some of which involved protection before conception. For instance, in the 1965 case of *William v. State of New York*, the plaintiff argued that the medical staff failed in their duty to supervise adequately, leading to the mother being violated, resulting in the plaintiff's birth and the denial of a normal family life and parental care. The plaintiff also suffered the stigma of being an illegitimate child and claimed that the state of New York should be held liable for damages as the owner of the hospital. The New York State Supreme Court ruled in favor of the plaintiff, stating that even though the plaintiff was not yet born or conceived when the mother was violated, it did not affect the defendant's responsibility to bear compensation for damages[12]. The recognition of protection for the fetus before conception in U.S. legal precedents reflects adaptation to social changes and scientific progress, contributing to the development and improvement of common law. Unlike German law, there are no instances in U.S. law where children claim damages for harm caused by their parents before birth. Therefore, there is no differentiation in U.S. law regarding the subject of harm before conception.

3.3. United Kingdom

The Thalidomide Sedative Incident marked the beginning of increased attention to fetal interest protection in the United Kingdom, causing global victims and tragedies for many families. In response, the Law Commission of England and Wales presented the "Report on Injuries to Unborn Children" in August 1974. This report, using the example of defective baby carriages, acknowledged protection before conception. Subsequently, the UK Parliament enacted the "Law Reform (Miscellaneous Provisions) Act 1976," recognizing that harm to a fetus, even occurring before the conception of the victim, could lead to a claim for civil damages against the wrongdoer[13]. In terms of harmful actions, UK law includes both acts and omissions in its discussions. Regarding the subjects of harm, UK law holds that parents are not liable for damages, aiming to uphold parent-child relationships and family ties.

3.4. Insights from Foreign Experiences for Fetal Protection Before Conception in China

In terms of legal foundations, Germany concentrates its protection before conception in judicial precedents, primarily using Article 823(1) of the German Civil Code as the basis for the right to claim damages. U.S. law's focus on protection before conception is also primarily found in judicial precedents, driving the development of common law. In contrast, UK law explicitly outlines the concept of protection before conception in legislation, providing a practical legal basis for such protection. Both German and UK laws, based on the logical foundation of tort liability, distinguish between situations where parents are the infringing parties and where third parties are, determining the responsibilities and consequences accordingly.

Looking at China, although Article 16 of the Civil Code acknowledges the protection of fetal interests, this protection is limited to post-conception, leaving cases of harm and malformation before conception without legal remedies. Furthermore, this provision, as a catch-all clause, should theoretically provide legal interpretation possibilities for the realization of protection before conception. However, its ambiguous wording has resulted in limitations in judicial practice, leading to the absence of judicial instances related to protection before conception in China. In the modern era, with increasing risks in society due to technological advancements, such as accidents in transportation, medical mishaps, environmental pollution, and a rising occurrence of unhealthy fetal conceptions, it is imperative to focus more on legal protection before conception. Drawing from international experiences, China can issue relevant judicial interpretations to guide judicial practice

and construct a protection system before conception based on tort law, enhancing the protection of fetal interests to meet the demands of the times.

4. Establishing a System for the Protection of Fetal Interests Before Conception in China

4.1. Identification of Harm to Fetal Interests Before Conception

While current legislation in China does not explicitly specify protection for fetal interests before conception, it can be encompassed within the scope of the protection of “civil rights” under Article 1164 of the Civil Code. The following elaborates on the elements constituting harm to fetal interests.

4.1.1. Infringing Actions

To constitute harm to fetal interests before conception, actions that harm the fetal health must be carried out before conception. The manifestation of harm to fetal interests before conception can be attributed to external wrongful acts or maternal deficiencies. The forms of harm under different circumstances are discussed below.

(a) External Harm

Harm to the fetus results from external wrongful acts, such as when individual A, before conception, requires a blood transfusion due to illness. If the hospital’s negligence leads to a virus infection, and this virus is transmitted to the fetus after pregnancy, the hospital’s harmful act, though indirectly affecting fetal health, does not break the causal relationship. For instance, a company manufactures toxic milk powder, and individual B, before conception, consumes the toxic milk powder, causing poisoning. Subsequently, the fetus conceived by individual B is also poisoned. Although the company’s wrongful act is indirect, it does not affect the causal relationship[14].

(b) Maternal Causes

As the transmission between the mother and the infant is vertical and there is no vertical transmission between the father’s defect and the infant, this discussion focuses on situations where the mother, due to her own reasons, causes defects in the fetus before conception. According to Article 17 of the “Law of the People’s Republic of China on Maternal and Infant Health,” “If during prenatal examination, a physician discovers or suspects fetal abnormalities, the pregnant woman should undergo prenatal diagnosis.” Current medical capabilities allow the detection of whether fetal defects are caused by preconception factors or occur after conception during prenatal examinations. Cases where maternal causes lead to fetal defects before conception are clinically common. For example, if the mother is infected with the HIV virus, the pathogen can enter the uterus through the cervix, affecting the implantation of the embryo and causing fetal malformations. Moreover, conditions like maternal pre-pregnancy high blood sugar, thyroid issues, Mediterranean anemia, or pre-pregnancy chromosomal and genetic problems can also result in fetal defects after conception.

4.1.2. Harmful Consequences

Secondly, to constitute harm to fetal interests before conception, there must be sustained harmful consequences inflicted on the victim, namely harm suffered before conception that persists until after the victim’s conception or birth. In the aforementioned BGHZ 8,243 case (hospital blood transfusion case), the victim’s mother, due to medical negligence before conception, contracted syphilis during a blood transfusion, leading to the victim being infected with the syphilis virus at conception, continuing until birth. As the Federal Supreme Court of Germany stated in a judgment: “Any act that hinders the natural growth of human life constitutes a heinous violation of the right to life.” While, from the perspective of the value of life, life with defects and life without defects are considered equal, the hospital’s wrongful act infringes upon the victim’s physical health, causing avoidable suffering

in the victim's real life. If the right to hold the hospital accountable is not granted, it would be inappropriate. As Kant said, "People are an end, not a means." The judiciary cannot overlook the specific circumstances of individuals and should focus on specific individuals from the perspective of human care.

4.1.3. Causation

There needs to be a causal relationship between the injurious actions of the perpetrator and the resulting harm to the victim, namely, the harm suffered by the victim before conception, continuing to the victim's conception or birth, is caused by the perpetrator's injurious actions. The burden of proof for the infringement of fetal interests adopts the general burden of proof for tortious acts, meaning whoever asserts must prove. However, in practice, it is often only when the fetus is born alive that it can bring a lawsuit for the harm suffered before conception. Given the relatively long gestation period, usually around 280 days, the correlation between injurious actions and harm suffered might be affected. Moreover, the perpetrator's injurious actions may not necessarily be the sole factor leading to the defects in the fetus or infant. Therefore, in cases where there is controversy over the causation of harm before conception, medical examination methods should be employed to identify the nature, manner, and extent of fetal injury, providing a scientific basis for judicial adjudication.

4.1.4. Subjective Fault

Infringement on the interests of the fetus before conception does not fall under a specially defined tort in the law. Therefore, the general principles of tort liability, namely the principle of fault liability, apply. Article 1165 of the Civil Code stipulates: "A person who, through fault, infringes on the civil rights and interests of others and causes harm shall bear tort liability." Hence, the perpetrator should be responsible for the harm resulting from intentional or negligent actions. In cases of infringement on fetal interests before conception, the foreseeability of the perpetrator regarding the harm deserves special consideration. In usual circumstances, it is challenging to determine whether the perpetrator foresaw the harm to the fetus at the time of conception. However, if the perpetrator has an obligation to ensure the safe conception of the fetus, the determination of whether they acted intentionally or negligently can be made based on the specific circumstances. For example, if a hospital, aware that a woman is in the preconception stage, administers blood that carries the HIV virus due to medical reasons, resulting in the fetus being infected with the virus at conception, the hospital has an obligation to ensure the safe conception of the fetus and can be deemed at fault. Similarly, if a person consumes a product labeled for preconception individuals and becomes poisoned, causing the fetus to be affected, the producer and seller of the product have an obligation to ensure the safe conception of the fetus, and their fault can be established. Furthermore, if an individual knowingly has syphilis and engages in sexual relations with their spouse, leading to the fetus contracting syphilis at conception, the individual, as the father of the fetus, has an obligation to ensure the safe conception of the fetus, and their intentionality can be foreseen.

4.2. Rights Subjects

It is worth discussing who can assert a claim for damages as the rights subject in cases of infringement on fetal interests before conception. Is it the fetus, the pregnant mother, or the parents of the fetus? After the birth of the fetus, can both parents and the fetus claim compensation for damages? If multiple parties bear the responsibility for compensating the harm to the fetus's interests before conception, it will undoubtedly increase the burden on the perpetrator. Therefore, determining the rights subject is crucial for the protection of rights. The following analysis explores different models of rights subjects.

4.2.1. Both Mother and Fetus as Rights Subjects

The fetus is considered a part of the mother's body. Therefore, any harm inflicted on the fetus before conception is typically perceived as harm to the mother, leading to issues such as viral infections during conception. How should the rights subject be identified when the third party's infringement simultaneously affects the mother's right to life and health and the fetus's personal interests? Some scholars argue that considering the fetus as a part of the mother can effectively protect all parties involved, and treating the fetus as an independent "person" might unnecessarily complicate litigation[15]. In traditional theories, the harm suffered by the fetus is mostly seen as personal injury to the mother. However, this perspective fails to fully encompass the personal interests of the fetus. The traditional view, in the author's opinion, deprives the fetus of the respect for life and denies the value of protecting the crucial process of conception as the source of life. In cases of infringement on the fetus's interests before conception, the mother can bring a lawsuit based on personal harm, and as the legal representative of the fetus, she can also assert the rights based on the fetal health interests. This is because the mother and the child are inherently different entities, and the infringement occurring before the fetus's conception harms distinct entities. Therefore, both the mother and the fetus can act as rights subjects, with the understanding that the fetus, lacking complete personality elements, requires a legal representative to exercise its rights.

4.2.2. Fetus as the Rights Subject, with Parents Exercising Rights on Its Behalf

Granting the fetus the right to assert a claim for damages in cases of pre-conception harm is an implementation of the protection of the fetal personality interest and a respect for the legal status of the fetus. However, the fetus lacks comprehensive recognition and judgment capabilities, cannot acquire civil rights and bear civil obligations through its actions, and does not possess complete personality elements. Therefore, a legal representative is needed to assert its rights. Parents are the most direct stakeholders of the fetus, sharing a direct blood relationship with the child and taking care of all affairs after its birth, making them the most suitable guardians for the fetus[16]. The right to claim compensation for harm caused by pre-conception harm should not be viewed as an independent right; instead, it should be seen as a type of harm to the fetal health, occurring before conception. Therefore, the right to claim compensation for harm caused by pre-conception harm should conform to the theoretical framework of fetal interest protection in China's Civil Code. This means that when the fetal interests were harmed before conception and the harm persists after conception, the fetus is considered to have the capacity for civil rights, and parents can assert the corresponding rights as legal representatives before the fetus is born[17]. If the fetus is born alive, it can bring a lawsuit against prenatal harm in its own name. In this case, the parents act as its legal representatives to assert corresponding rights. If the fetus is born as a stillborn, the fetus inherently lacks legal capacity. In this situation, only the mother of the fetus can request compensation based on her bodily rights or health rights due to harm. In other words, if the fetus fails to be born alive or is stillborn, regardless of whether it is due to tortious acts or other reasons, the fetus itself cannot exercise the right to claim compensation. Instead, the right to claim compensation should be held by the fetus's mother [18]. The rationale behind this is that the fetus is a constituent part of the mother's body. Harming the fetus directly or indirectly harms the mother's physical health. Furthermore, as the fetus loses civil rights due to death, the right to claim compensation is naturally vested in the mother[19]. If the parents have already obtained compensation before the fetus is born, but the fetus is later not born alive or is stillborn, it should be considered unjust enrichment and returned. However, the mother can still file a compensation claim based on harm to her physical health. It is important to note that the establishment of harm before conception does not presuppose the existence of tortious acts constituting an infringement by the perpetrator against the parents of the victim. Since parents and

children are distinct entities, the assessment of whether infringement occurs should be considered separately [20].

4.2.3. Can the Fetus Claim Rights Against the Mother for Congenital Abnormalities Due to the Mother's Own Conditions?

In China, Article 18 of the Maternal and Child Health Law stipulates that if prenatal diagnosis reveals any of the following situations, the physician should explain the situation to both spouses and provide a medical opinion on terminating pregnancy: (1) the fetus has a severe hereditary disease; (2) the fetus has a severe defect; (3) continuing the pregnancy may endanger the life of the pregnant woman or seriously harm her health[21]. Article 19 further specifies that termination of pregnancy or sterilization procedures must have the consent of the person involved, and their written approval must be obtained[22]. There are two scenarios that may arise in practice under Article 18: (1) the mother's illness occurs before conception, and she is aware that the fetus may have defects but chooses to proceed with the pregnancy, resulting in the birth of a child with the anticipated disease or defect. (2) The mother's illness occurs before conception, and she is aware that the fetus may have defects but chooses to proceed with the pregnancy, and the child is born without the anticipated disease or defect. Both scenarios are based on the assumption that there is no negligence on the part of the medical provider in prenatal examinations, and relevant information on congenital defects has been provided to the pregnant woman. Regarding the first scenario, where harm to the fetus before conception arises from the mother's own defects, and the mother is aware that the child may have defects but insists on pregnancy, can the fetus sue the mother for damages after birth? The author believes that it cannot. The reason is that pregnant women have the right to decide whether the fetus will be born, a right derived from legal protection of a woman's reproductive freedom. Even for women at a high risk of giving birth to children with congenital disabilities or those already pregnant with a seriously ill fetus, interventions such as induced abortion must have the consent of the pregnant woman or her legal representative[23]. Simultaneously, while the fetus receives legal protection due to its quasi-personhood status, the right to life of the fetus is not absolute. In contrast, the mother's reproductive right is an absolute privilege. Therefore, in such a scenario, the mother's reproductive right takes precedence, and offspring do not have the right to demand the termination of her pregnancy [24]. The rationale lies in the difficulty of establishing a clear causal relationship between the mother's actions and the harm inflicted. The factors causing fetal defects may be diverse, making it challenging to attribute the harm directly to the mother's behavior. Consequently, allowing the fetus to file a lawsuit against the birth mother may unnecessarily burden judicial practice. Moreover, considering the unity of the mother and the fetus, the mother's decision to maintain the pregnancy, even with existing health issues, is a protection of the fetal right to be born. This is especially crucial in situations where the mother's health is at risk. Therefore, it is inappropriate to overly expand the fetus's right to claim compensation. Furthermore, in a comparative legal context, there is also a lack of consensus on children asserting infringement claims against mothers due to health issues during conception. For instance, German scholar Zelp believes that parents are not held civilly liable solely for harm caused to the child due to the act of conception (e.g., genetic diseases) [25].

4.3. Content of Rights

If the tortious act occurs before conception but causes harm to the fetus, the rights holder may enjoy the right to claim compensation for the damage. Although there is a time gap between the harmful act and the resulting damage, it does not affect the establishment of causation. Therefore, the fetus has the right to claim compensation for the harm caused by the infringement. Article 1179 of the Civil Code stipulates that a person who, due to fault, infringes on another person's personal rights causing

bodily harm must provide compensation. Additionally, Article 1183 allows for compensation for mental harm and tort liability to be used concurrently. Thus, if the tortious act causes physical harm to the fetus, the fetus can demand compensation for reasonable expenses, including necessary medical treatment, essential care, living assistance, and disability aids, incurred after birth[26]. For compensation for mental harm, the fetus can only request it if the harm persists after the fetus is born alive.

4.4. Exercise of Rights over Time

Before the fetus is born, if there is conclusive evidence proving its harm (including harm before conception and during the fetal period), parents can act as legal representatives to exercise the right to claim compensation before the fetus is born. If the harm cannot be determined, evidence must be awaited until the harm is ascertainable before exercising the right to claim compensation. The reason for this lies in modern medicine's ability to identify factors causing fetal abnormalities, such as maternal diseases like rubella, herpes simplex, and toxoplasma infection, either before or during conception. Therefore, remedies for infringement of prenatal interests can be sought even before the fetus is born.

Regarding the statute of limitations for lawsuits protecting prenatal interests of the fetus, it needs to be determined based on the real situation. Some conditions can only be discovered and diagnosed at specific ages (e.g., infants' intellectual decline due to improper medication or food intake by the mother before or during pregnancy). The latent period for some injuries or infections can extend to more than ten years, and the consequences of some injuries may become apparent only after several generations (e.g., genetic mutations caused by radiation). Therefore, in applying the statute of limitations to protect the prenatal interests of the fetus, it should begin when the right is "known or should have been known to be damaged," or else it may render the protection of fetal interests impractical. However, to prevent the abuse of rights, the UK's Civil Liability (Profoundly Disabled Persons) Act Section 4(3) stipulates that "only the first generation has the right to claim compensation," which can be considered for reference[27].

5. Conclusion

In conclusion, conception stands as a crucial stage in the development of human life. The protection of prenatal interests contributes to safeguarding the rights of the fetus to safety and healthy growth. The essence of safeguarding the prenatal interests of the fetus fundamentally reflects respect for the dignity of human life. Currently, with the continuous advancement of science and technology and the increasing risks in social life, various unforeseen events continue to occur. Unlawful infringements before conception may lead to an increased probability of health damage. The existing medical capabilities aid in determining the causal relationship between preconception harm and resulting damage. However, the current provisions in civil law regarding the protection of fetal interests lack explicit regulations on the protection of prenatal interests. There are no cases in judicial practice addressing this issue. Nevertheless, real-life situations involve instances where the fetus experiences harm before conception. Therefore, it is indeed necessary to establish a legal framework for the protection of prenatal interests in our country. The author believes that academic exploration knows no bounds, and the quest for knowledge is endless. Hence, the civil law system concerning the protection of fetal interests will undoubtedly become more systematically refined.

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