

Analysis of the Current Situation of the Constitutional Judicial Protection of the Rights of Vulnerable Groups Under the Perspective of Equity and Countermeasures

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Abstract:

In a society governed by the rule of law, the constitutional judicial protection of the rights of vulnerable groups is of irreplaceable importance. From the perspective of fairness, this paper aims to analyse the current situation of constitutional judicial protection of the rights of vulnerable groups in China, and put forward corresponding countermeasures and recommendations, with a view to achieving social justice and harmony. This article first defines the concept of vulnerable groups and their characteristics, and then discusses the connotation of constitutional judicial protection and its value for vulnerable groups. Subsequently, the article analyses the current situation of the protection of the rights of vulnerable groups in China's constitutional text and judicial practice, and points out the existing deficiencies. On this basis, it puts forward countermeasures and suggestions to improve the constitutional provisions, raise the level of judicial protection and build a diversified guarantee mechanism. Finally, the article summarises the research results and stresses the importance of realising the protection of the rights of vulnerable groups.

Keywords:

Vulnerable Groups, Constitution, Judicial Protection, Fairness and Justice, Countermeasures Analysis

1. Introduction

Against the background of rapid economic development, the problem of unequal distribution of social resources is becoming more and more prominent, and vulnerable groups are facing challenges and difficulties in many aspects. As the fundamental law of the country, the Constitution plays a crucial role in safeguarding the rights of vulnerable groups through its judicial protection mechanism. This paper analyses the current situation of constitutional judicial protection of the rights of vulnerable groups, aiming to provide reference for improving the relevant legal system and judicial practice.

2. Vulnerable Groups and the Theoretical Foundations of Constitutional Judicial Protection

2.1. Concept and characteristics of vulnerable groups

Vulnerable groups refer to those who are disadvantaged in the socio-economic, political and cultural structures of society, and these groups usually face gaps and barriers in access to resources, social services and protection of rights and interests. Characteristically, they may experience social marginalisation or discrimination due to a variety of factors such as economic difficulties, physical barriers, educational limitations, gender, age and race. These groups include, but are not limited to, low-income families, persons with disabilities, older persons, children, ethnic minorities and others. Protecting the rights of these groups is not only a requirement for achieving social equity, but also a cornerstone of social stability and harmony [1].

2.2. Connotation and Value of Constitutional Judicial Protection

Constitutional judicial protection refers to the act of upholding the fundamental rights granted to citizens by the Constitution through the judiciary. Such protection ensures that all laws and policies are implemented in a manner that does not contravene the basic principles and provisions of the Constitution, and safeguards individual and collective rights from undue infringement. Its core values are embodied in upholding the authority of the Constitution, ensuring equality before the law and promoting a state of social justice and the rule of law. Through such means as judicial review, the judicial protection of the Constitution provides an important safeguard mechanism for vulnerable groups, enabling them to effectively realise and defend their rights.

2.3. The need for constitutional judicial protection of the rights of vulnerable groups

The need for constitutional judicial protection of the rights of vulnerable groups is obvious. Due to their unfavourable social, economic and cultural status, vulnerable groups often find it difficult to safeguard their rights and interests through ordinary means. The intervention of judicial protection mechanism can ensure that these groups will not be neglected or treated unfairly before the law, and realise the basic requirements of social justice. The rights granted by the Constitution will become empty words if they are not safeguarded through effective judicial channels. Judicial protection provides vulnerable groups with a powerful means of defending their rights, enabling the practical implementation of the fundamental rights of equality and freedom stipulated in the Constitution, and promoting overall social harmony and stability, which is crucial to building an inclusive and just social environment. Therefore, strengthening the constitutional judicial protection of vulnerable groups is not only in line with the principle of the rule of law, but also a sign of social development and progress[2].

3. Analysis of the Current Status of Constitutional Judicial Protection of the Rights of Vulnerable Groups in China

3.1. Provisions on safeguarding the rights of vulnerable groups in the text of the Constitution

As the fundamental law of the country, the Constitution has clear provisions on the protection of the rights of vulnerable groups, with the aim of ensuring that these groups have equal opportunities for social participation and fair distribution of resources, and preventing social inequality and discrimination.

The Constitution usually expressly provides for the right to equality of citizens, which is a fundamental guarantee of the rights of all groups, including vulnerable groups. For example, the constitution will state that discrimination on the basis of gender, race, religion, origin, etc. is prohibited and that everyone is guaranteed equality before the law. Special protection measures for certain vulnerable groups are also enshrined in the Constitution. For example, in the case of persons with disabilities, the Constitution provides that the State shall provide special employment protection, rehabilitation services and livelihood assistance. In the case of children, constitutions often provide that the State guarantees the right to education and the right to be free from abuse and sexual exploitation. In the case of older persons, constitutions may provide for the State to guarantee basic subsistence and medical care. In addition, constitutions may provide that the State shall, through legislation and other forms, ensure the rights of vulnerable groups to social welfare, public services and so on. This includes social assistance for low-income families, unemployment insurance, medical assistance and other systems. In addition, the Constitution also empowers disadvantaged groups to defend their rights through judicial channels, such as ensuring that they have access to a fair judicial trial and legal aid. However, even with these constitutional provisions, the actual protection of the rights of vulnerable groups is affected by a number of factors, including the strength of implementation, the independence of the judiciary, and the political and social environment. In some countries, despite clear constitutional provisions, the protection of the rights and interests of vulnerable groups continues to face significant challenges due to weak implementation of laws, a corrupt judicial system, or deeply entrenched discriminatory societal attitudes [3].

3.2. Case studies on the protection of the rights of vulnerable groups in judicial practice

The protection of the rights of vulnerable groups in China's judicial practice has been gradually strengthened. The following case studies reflect the current situation of the protection of the rights of vulnerable groups in China's judicial practice:

(1) Protection of women's rights and interests: Chinese laws give special attention to women's rights and interests. For example, in cases of domestic violence, Chinese courts usually grant legal protection to victims in accordance with the Law against Domestic Violence, including the issuance of personal safety protection orders. When hearing such cases, the courts tend to protect women's rights and interests and emphasise the importance of preventing and stopping domestic violence.

(2) Protection of the rights and interests of persons with disabilities: Chinese law provides that persons with disabilities enjoy equal rights to employment, and sanctions are imposed for acts of discrimination against them. In practice, the courts safeguard the employment rights of persons with disabilities through labour dispute cases, ensuring that persons with disabilities are not unfairly treated because of their disabilities.

(3) Protection of minors: China attaches great importance to the protection of minors, particularly in criminal justice practice. Courts usually take a more cautious

approach when dealing with cases involving minors, while at the same time ensuring that minors' right to privacy is protected. Laws such as the Law on the Protection of Minors and the Law on the Prevention of Juvenile Delinquency provide comprehensive protection for minors.

(4) Protection of the Rights and Interests of the Elderly: With the advent of an aging society in China, the protection of the rights and interests of the elderly has also been placed at the forefront of judicial protection. For example, children who neglect their responsibility to support the elderly may be punished by law. The courts usually protect the legitimate rights and interests of the elderly and ensure that their living conditions and spiritual needs are met.

(5) Protection of the Rights and Interests of Migrant Workers: Migrant workers, as a unique social group in China, may be at a disadvantage in terms of wage payment, contract signing, and compensation for work-related injuries. Chinese courts usually give priority to the protection of the legal rights of migrant workers, such as ensuring that their wages are paid in full and in a timely manner, when adjudicating relevant cases.

The above cases illustrate the current situation of the protection of the rights of vulnerable groups in China's judicial practice. However, the protection of the rights of vulnerable groups is still a process of continuous progress and improvement, and requires the synergistic development of laws, policies, judicial interpretations and actual practice in order to further improve the level of protection of the rights of vulnerable groups.

3.3. Deficiencies in the constitutional judicial protection of the rights of vulnerable groups in China

In China, despite the fact that the Constitution and the legal system provide clear guarantees for the rights of vulnerable groups, and that judicial practice has gradually enhanced the protection of these groups in recent years, there are still some deficiencies in judicial protection. The following is an analysis of China's deficiencies in the constitutional judicial protection of the rights of vulnerable groups.

(1) Uneven implementation of the law is a prominent problem: in some regions, the protection of the rights of vulnerable groups cannot be fully implemented due to weak legal awareness, insufficient law enforcement, or the influence of local protectionism. For example, the problem of wage arrears for migrant workers is still prevalent in some regions. Even though the relevant laws provide for clear payment obligations and default liabilities, in practice, migrant workers often face many difficulties, and it is still not easy to defend their rights and interests through legal channels [4].

(2) Uneven distribution of judicial resources makes it difficult for some disadvantaged groups to obtain timely and effective judicial remedies: in remote and impoverished areas, the lack of legal services, as well as the insufficient number of judges and lawyers, make it difficult for local residents, especially disadvantaged groups, to obtain professional legal help. In addition, the complexity and high cost of judicial procedures also discourage some disadvantaged groups.

(3) The protection of the rights of specific vulnerable groups, such as persons with disabilities and gender and sexual minorities, continues to face many challenges in judicial practice: despite legislation such as the Law on the Protection of Persons with Disabilities, discrimination against persons with disabilities still exists in practice, and

laws on the protection of gender and sexual minorities are lagging behind, so that the rights of these groups are not adequately recognised and safeguarded.

(4) The handling of judicial cases involving vulnerable groups sometimes lacks the necessary sensitivity and awareness of the special needs of the groups: for example, insufficient special protection measures for the rights and interests of women and children may result in cases of domestic violence being handled in such a way that the interests of the victims are not protected to the fullest extent.

(5) Prevailing prejudice and discrimination in society are challenges to constitutional and judicial protection mechanisms. Members of vulnerable groups may face various forms of discrimination in society, and these discriminatory behaviours undermine the effectiveness of judicial protection at its root.

Overall, China has made some progress in the constitutional judicial protection of the rights of vulnerable groups, but there is still a need to continue to optimise the mechanisms for enforcing the law, to enhance the universality and accessibility of legal services, to improve the fairness and sensitivity of the judiciary, and to eliminate discrimination against vulnerable groups through education and social policies, in order to more comprehensively safeguard the rights of vulnerable groups.

4. Countermeasures Suggestions for the Constitutional Judicial Protection of the Rights of Vulnerable Groups under the Perspective of Equity

4.1. Improve the provisions of the constitutional text on the protection of the rights of vulnerable groups

Improving the provisions on the rights of vulnerable groups in the Constitution is an important part of building a just society based on the rule of law. In the case of China, this work requires comprehensive legislative, judicial and social efforts at all levels. The Constitution should clearly list which groups are recognised as vulnerable, and define their legal status and basic rights. Consideration could be given to specifying women, children, the elderly, persons with disabilities, ethnic minorities and rural migrant workers to ensure that the fundamental rights and freedoms of these groups are not discriminated against or violated. The Constitution should add provisions for the special protection of vulnerable groups and make it clear that the State is taking positive measures to achieve the equality for vulnerable groups. For example, legislation should be adopted to ensure that persons with disabilities have the right to access public services and facilities, that women have the right to enjoy equal rights and interests in work and social life, and that the rights of minors to education and development are protected. Again, there is a need to enhance the operationalisation of the Constitution and to safeguard the rights of vulnerable groups by establishing clear legal responsibilities and implementation mechanisms. For example, special monitoring bodies should be set up, detailed implementation rules should be formulated, and the legal consequences of violating the rights of vulnerable groups should be established. The Constitution should also incorporate an international perspective on the rights of vulnerable groups, and incorporate internationally recognised principles and norms relating to the protection of vulnerable groups into the domestic constitutional system, for example, by introducing the relevant provisions of the UN Convention on the Rights of Persons with Disabilities, reflecting the achievements of international human rights protection. Through the above

measures, a more solid legal foundation for the protection of the rights of vulnerable groups can be provided at the constitutional level, as well as promoting the construction of the rule of law and social justice in China.

4.2. Improving the level of protection of the rights of vulnerable groups in judicial practice

Improving the level of protection of the rights of vulnerable groups in judicial practice is the key to ensuring legal justice and social equity. There is a need to enhance the awareness and understanding of judges and lawyers of the special needs of vulnerable groups. This can be achieved through regular professional training, seminars and workshops so that they can be more sensitive in identifying and responding to the rights and interests of these groups when handling relevant cases. Judicial procedures should also be simplified and litigation costs reduced so that vulnerable groups can access and use the justice system more easily. This may include the provision of free or low-cost legal aid services for vulnerable groups and the development of user-friendly litigation procedures, such as small claims procedures and online litigation platforms. The judiciary should also create and optimise specialised adjudicative bodies and procedures to provide special judicial protection in cases involving vulnerable groups. For example, special courts or rapid response mechanisms should be set up to deal with cases of domestic violence, gender discrimination and the rights and interests of persons with disabilities. Judicial transparency and public participation should be enhanced, and the public should be able to monitor and evaluate the protection of the rights of vulnerable groups in the judicial process through the publicising of the trial and adjudication process. In this way, the judiciary will be more careful in handling cases of vulnerable groups to ensure that their rights are treated fairly. Courts should actively apply the principle of equal protection in the Constitution and the law in their rulings, granting substantive equality to members of vulnerable groups. Where appropriate, the courts should consider adopting positive judicial remedies to ensure that vulnerable groups are actually protected. In this way, the level of protection of the rights of disadvantaged groups in judicial practice can be effectively enhanced, and equal protection of all persons under the law can be realised.

4.3. Constructing a diversified mechanism for safeguarding the rights of disadvantaged groups

Constructing a diversified mechanism to safeguard the rights of vulnerable groups is an important way to realise social justice. This mechanism should include the following aspects: firstly, improving the constitution and legal system, clarifying the content of the rights and interests of vulnerable groups, and providing a strong legal basis for vulnerable groups. Secondly, strengthening judicial safeguards, improving the level of protection of the rights of vulnerable groups in judicial practice, and ensuring that the Constitution and laws are effectively implemented in practice. Once again, administrative safeguards have been strengthened, with government departments actively fulfilling their duties to support and safeguard disadvantaged groups, and formulating and implementing relevant policies to ensure that disadvantaged groups enjoy equal treatment in education, employment, medical care and other areas. In addition, a social participation mechanism has been established to encourage all sectors of society to pay attention to and support the disadvantaged groups, so as to form a rights protection system in which the whole society

participates. Finally, we are strengthening the capacity building of the disadvantaged groups and improving their ability to safeguard their rights and interests, so that they can better protect themselves in social life. On this basis, China should also actively explore innovative ways to safeguard the rights of vulnerable groups, such as setting up special funds and carrying out social welfare activities, in order to provide substantive assistance to vulnerable groups in various forms. At the same time, we should strengthen international co-operation and exchanges, and learn from the successful experience of other countries in safeguarding the rights of the disadvantaged groups, so as to provide better protection for the disadvantaged groups in our country. In short, the construction of a diversified mechanism for safeguarding the rights of vulnerable groups will help to promote social justice, achieve the sharing of the fruits of development by all people, and build a harmonious society.

5. Conclusions

In conclusion, strengthening and improving the constitutional judicial protection of the rights of vulnerable groups is of great significance to the construction of a more just and harmonious society. By improving legal provisions, strengthening judicial practice and constructing a diversified safeguard mechanism, the social status of vulnerable groups can be effectively upgraded, and the realisation of social fairness and justice can be promoted.

Conflicts of Interest

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References

- [1] Zhu, Y.P. On the Constitutional Judicial Protection of the Rights of Vulnerable Groups. *Journal of Yunnan Administrative College*, 2003, 3, 5. DOI: 10.3969/j.issn.1671-0681.2003.03.020.
- [2] Zhou, X.Q. The current situation of legal rights and interests protection of rural disadvantaged groups and countermeasures. *Law (Hans)*, 2023, 11(4), 3083-3088, DOI: 10.12677/OJLS.2023.114440.
- [3] Zhou, G.Z. On the Constitutional Rights of the Elderly and Their Guarantees. *Hunan Law Review*, 2023, 3(3), 47-58.
- [4] Zhang, T.S.; Zeng, Z. Research on the status quo, problems and countermeasures of the legal protection of the actual constructor. *Journal of Taiyuan City Vocational and Technical College*, 2022, 7, 183-187.



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