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Research on Legal Risks and Protection Mechanisms in Senior Co-Housing Arrangements

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Abstract. Against the backdrop of an increasingly aging population, senior co-housing has become an option chosen by a growing number of elderly people. Thus, this paper examines the legal risks and safeguard mechanisms of senior co-housing. Based on existing literature and relevant legal provisions, it aims to provide an in-depth analysis of the legal risks faced by seniors who choose to co-house and to propose practical safeguard mechanisms suited to China's context. Through an investigation of the current realities of senior co-housing in China, the study addresses property issues and examines the underlying causes of legal risks involved. The results demonstrate that by integrating international legislative experience in protecting non-marital cohabitation among the elderly with local practice, it is possible to establish a comprehensive safeguard framework that prioritizes contractual arrangements while providing fallback protection through de facto relationship recognition. Furthermore, the study proposes clarifying the separate property principle, refining the identification of shared assets and the valuation of household labor, and developing specific legal measures to address residence and inheritance issues.

Keywords: Older Adults, Senior Co-Housing, Non-Marital Cohabitation, Legal Regulation

1. Introduction

In recent years, active measures to address population aging have been elevated to the level of a national strategy and have been formally incorporated into China's national economic and social development plans and long-term policy goals. With the accelerating trend of population aging, the demand structure of the elderly in China is shifting from survival-oriented to development-oriented, and senior co-housing is gradually emerging as a viable alternative model for elder care. Based on the current realities of senior co-housing in China, this study reviews and analyzes relevant cases, with particular focus on categorizing and examining property-related challenges within this model. By comparing international legal frameworks for non-marital cohabitation among older adults, this study proposes an integrated protection model that gives priority to contractual arrangements while ensuring fallback safeguards through the recognition of de facto relationships. Moreover, it outlines further outlines fundamental principles for regulating property relations and recommends targeted legal strategies to address specific issues related to senior co-housing. To support these proposals, the study reviews relevant laws, regulations, policy documents, and academic literature to examine

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the background and operational mechanisms of this arrangement. Drawing on questionnaire surveys, field visits, and case analyses, it also investigates the practical needs and legal challenges of older adults and draws on international experience to propose locally appropriate safeguards

2. Underlying concept and key features of senior co-housing

2.1. Fundamental concept of the senior co-housing model

Essentially, senior co-housing means that elderly men and women live together without registering a marriage, share living resources, provide emotional support, and caring for each other in later life [1]. In practice, several typical forms of senior co-housing can be identified. Specifically, the first type is a companionship arrangement in which both parties remain financially independent and primarily seek emotional comfort, with clear property boundaries and few disputes. In addition, the second type is a mutually beneficial relationship that combines financial support and caregiving, in which one party provides material assistance while the other undertakes daily care responsibilities. This arrangement tends to create stronger interdependence and carries a higher risk of disputes over responsibilities. Besides, there are temporary cohabitation arrangements intended as trial marriages, along with emotionally motivated relationships where couples live together because their children oppose formal marriage [2].

2.2. Basic characteristics of senior co-housing in China

Compared with non-marital cohabitation among younger groups, senior co-housing in China shows clear intergenerational features and a distinct social context, with the following basic characteristics. Firstly, the formation of these relationships tends to be rapid. As most participants are elderly and have urgent care needs, relationships are often quickly formed through acquaintances, matchmaking services, or media advertisements, with cohabitation beginning shortly thereafter. Secondly, the aim of such arrangements is clearly defined. Senior co-housing primarily addresses dual needs for daily care and emotional companionship by establishing a supportive living arrangement through which basic care and companionship are ensured in old age. Thirdly, living arrangements under this model are highly diverse. In particular, senior co-housing may take diverse forms, ranging from traditional cohabitation to alternating living arrangements or flexible “walking marriage” models that do not require permanent cohabitation. Besides, the nature of these relationships is inherently fragile. Due to the lack of legal recognition and institutional safeguards, such relationships are prone to collapse when significant changes occur, and unclear property responsibilities often become a major source of conflict and dispute [3].

3. Practical challenges and necessity of legal regulation for senior co-housing

3.1. Existing legal framework and regulatory approaches

With the promulgation of the Civil Code, the previous provisions under the Judicial Interpretation I of the Marriage Law and Judicial Interpretation II of the Marriage Law have been invalidated. In current legal practice, senior co-housing as a form of non-marital cohabitation is not yet specifically regulated under a dedicated legal framework. While current legislation emphasizes the protection of legally married couples, the regulatory approach to unmarried cohabitation, especially among the elderly, is still in a stage of gradual exploration and refinement. As such, the rights and obligations of parties engaged in senior co-housing are frequently left undefined, making disputes over property

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division, inheritance, and maintenance obligations more likely when these relationships dissolve. Meanwhile, relevant safeguard mechanisms have yet to be clearly articulated in legal terms. It is therefore important for the law to clarify the regulatory status of senior co-housing, define its legal attributes in relation to the marital system, and specify appropriate governance approaches. Besides, it is important to continue enhancing safeguard mechanisms, improving legal oversight and judicial pathways, so as to better protect the legitimate rights and interests of the elderly.

3.2. Legal risks faced by companion elderly care

3.2.1. Challenges in legislative positioning and normative definition

The main question about the legislative positioning of senior co-housing is whether it should be legally recognized. At present, Chinese law adopts an attitude of neither explicit recognition nor outright denial toward non-marital cohabitation. Many scholars argue that family law should adopt a more tolerant and open approach to new forms of family structures and that senior co-housing should be brought within the scope of legal regulation [4]. However, due to the absence of legal recognition for senior co-housing, the legitimate rights and interests of vulnerable groups, such as cohabiting elderly women, are often overlooked when such relationships end. Even though elderly women typically undertake substantial household labor during cohabitation, they often remain in a disadvantaged position within senior co-housing arrangements [5].

3.2.2. Typical legal issues in judicial practice

In judicial practice, the typical legal issues arising from non-marital cohabitation among the elderly, commonly referred to as senior co-housing, mainly concern property ownership, inheritance claims, personal relationships, and residential use. In the absence of specific legal provisions, relevant cases are often handled based on general principles, which may lead to differing judicial interpretations. In terms of property arrangements, parties in senior co-housing relationships often fail to conclude written agreements regarding asset ownership, leading to significant disputes over the determination of jointly owned property, allocation of debts and claims, and valuation of household labor when the relationship ends [6]. In practice, when applying the Opinions of the Supreme People's Court on the Trial of Cases Involving Cohabitation as Husband and Wife Without Marriage Registration, joint ownership is generally recognized. However, due to evidentiary difficulties, determining the exact share of ownership is often challenging, which may affect how each party's contributions are reflected in legal outcomes. In terms of inheritance, there is currently no specific legal provision addressing the rights of non-marital cohabiting partners. In cases where the deceased did not leave a will, such partners often face a high burden of proof when claiming inheritance. In addition, judicial rulings may differ in assessing each party's contributions during cohabitation, which can sometimes lead to different judicial approaches to addressing non-marital partners' contributions. For personal relationships, since non-marital cohabitation lacks explicit legal recognition, whether the parties have mutual maintenance obligations remains contested [7]. In terms of residential security, current regulations do not clearly specify whether either party has the right to remain in the shared home after the relationship ends, which may affect the living stability of the elderly [8]. Besides, in emergencies, there is no clear legal guidance on whether one party may act on behalf of the other in household matters to safeguard their interests [9]. Given the evolving nature of judicial responses to senior co-housing, further clarification of relevant legal rules and protections may support more consistent and predictable adjudication.

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4. Legal regulation and safeguard mechanisms for senior co-housing

The emergence of non-marital cohabitation among older adults for the purpose of mutual care can be seen as a response to certain social and historical circumstances. Related disputes may continue to arise, and the ongoing nature of this arrangement further complicates relevant legal relationships, which have not been fully articulated within current legal discussions. Thus, it may be necessary to consider appropriate measures to help address these issues over time.

4.1. International practices and institutional insights

4.1.1. Institutional practices in different legal systems

As societies change and populations age, more older adults are choosing non-marital cohabitation worldwide. Hence, many countries address such relationships through laws or courts, seeking to fit them into existing frameworks. In general, civil law jurisdictions rely on codified statutes, while in contrast, common law systems place greater emphasis on case law and contractual arrangements. Despite these differences, most legal systems aim to provide basic safeguards for older adults in non-marital cohabitation, mainly covering status recognition, property division, and child custody. For example, in civil law countries, France has established the Pacte Civil de Solidarité (PACS), which falls between marriage and informal cohabitation. The PACS grants cohabitants legal status and enables them to manage property relations via contractual arrangements [10]. And Germany does not equate non-marital cohabitation with marriage but recognizes its legal effect in certain areas of law, while generally maintaining the primacy of marriage [11]. In contrast, Japan does not have specific legislation for non-marital cohabitation but treats such relationships as quasi-marital and applies general civil law principles to address related issues [12]. In common law systems, the United States laid the foundation for regulating non-marital cohabitation through contracts in the landmark Marvin v. Marvin case, which became a starting point for recognizing such relationships [13]. Thus, the American Law Institute (ALI) proposed that the division of property in cohabitation cases should follow principles similar to those governing marriage, covering both same-sex and opposite-sex partners [14]. Meanwhile, in the United Kingdom, since the late 20th century, case law has gradually recognized rights and obligations related to property division and child custody in non-marital cohabitation, with courts generally relying on contract or trust principles to determine property ownership [15].

4.1.2. Transferable concepts and institutional components

In foreign legal practice, three representative approaches have emerged for regulating non-marital cohabitation: the contractual model, the registration model, and the factual status model [3]. These frameworks vary by legal culture and social context, offering useful references for China. In some countries, the contractual model relies on cohabitation agreements between parties, thus reinforcing private autonomy while using the law as a fallback to ensure minimum protection. However, where one partner primarily performs household labor while the other contributes financially, this division often results in an imbalance of accumulated assets, leaving the economically weaker party with limited recourse when the relationship ends. To overcome the limits of the contractual model, some jurisdictions have introduced a registration scheme that confers legal status on cohabiting partners and explicitly defines their rights and obligations, thus enhancing legal certainty and enforceability. However, registration entails a certain degree of publicity, which may deter older adults who value

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privacy and prefer not to subject their private relationships to official recognition. By comparison, the factual status model determines rights and obligations based on the objective living arrangement, without requiring an explicit agreement or public registration. This model may fit China's reality more closely, as it reduces barriers for those who prefer to avoid formal registration. Under this approach, parties can opt out of mandatory rules through private agreements; if no agreement exists, minimum legal safeguards still apply if factual conditions meet certain standards. Although this model offers greater flexibility beyond traditional arrangements, it still faces challenges such as evidentiary issues and ambiguous legal recognition. Based on these models, a regulatory framework for non-marital cohabitation could be explored, one that prioritizes contractual arrangements while incorporating factual recognition where appropriate. This implies that mutual agreements could serve as the primary basis for regulating cohabitation matters, with context-based mechanisms supplementing in the absence of formal arrangements. Such a framework could help balance private autonomy with practical protection, offering a more feasible and inclusive legal response for older adults in non-marital cohabitation.

4.2. Improvement path of non-marital cohabitation for the elderly

As non-marital cohabitation is not explicitly defined in the Civil Code, property and responsibility issues related to senior co-housing remain somewhat open under the current framework. To meet practical needs and protect legitimate interests, supportive mechanisms balancing autonomy and safeguards may be gradually developed in line with real-life conditions.

4.2.1. Establishment of a separate property regime

The clear definition of property ownership during non-marital cohabitation among older adults is fundamental for resolving related disputes. Building on the existing framework and drawing on domestic and international experience and trends, it is advisable to establish separate property as the basic rule, in accordance with any agreements reached by the parties [16]. In principle, property acquired during the cohabitation period may be regarded as the separate property of each party. This is mainly because most older adults are retired, with income typically received via family support, pensions, retirement benefits, inheritance or gifts, which are not generated by labor but rather reflect personal connections unrelated to the cohabiting partner. Therefore, from the logic of ownership, such property should be recognized as personal property, which is more conducive to maintaining clear property boundaries and the stability of the relationship.

4.2.2. Incorporation of joint property ownership principles

Under current law, property arising from non-marital cohabitation is commonly handled as shared ownership. However, for income or assets acquired via joint effort, such as earnings from shared labor or jointly purchased items, it may be more reasonable to treat them as jointly owned. This is because cohabitation differs from a civil or business partnership, as it involves closer personal and economic ties, making the application of joint ownership rules often fairer. However, high-value assets like real estate and vehicles should not automatically be considered jointly owned. Given their significant value, treating them as co-owned without clear contribution evidence could unfairly harm the interests of the main contributor [3].

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4.2.3. Recognition of household labor's economic value

In the event that cohabitation property ownership is determined, the economic value of household labor should be properly recognized, particularly as women in such arrangements frequently take on greater caregiving and household tasks. The Civil Code already provides for compensation for household labor, and this mechanism should likewise apply here to protect the weaker party's lawful rights when the relationship ends. To make this operable in practice, household labor should be translated into a quantifiable economic value. If the parties cannot reach an agreement, local market rates for domestic services can serve as a reference for compensation, with adjustments for local economic conditions and the other party's ability to pay, ensuring the system is both practical and fair.

5. Conclusion

In the context of an aging society, legal frameworks for managing risks and providing safeguards in senior co-housing arrangements remain in development and may benefit from further refinement. This paper examines the practical features and legal challenges of senior co-housing in China, while highlighting key issues related to property division, inheritance, residence rights, and maintenance obligations. Informed by international experience, it puts forward a regulatory model aligned with contextual needs and institutional realities. The results demonstrate that a comprehensive protection mechanism combining a contractual approach with a fallback de facto model would be appropriate. In particular, the principle of separate property for non-marital cohabitation should be clearly defined, rules for identifying jointly owned property should be refined, and standards for valuing household labor should be introduced to address disparities in contributions. In addition, residence rights and inheritance rules should be further developed, and the protection of cohabitants' interests should be reinforced in judicial practice. In the context of population aging, future institutional discussions may focus on aligning cultural traditions with contemporary legal principles, with the aim of better supporting the rights and well-being of older adults.

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