

# Obstacles and Reconstruction of China's Financial System from the Perspective of Special Needs Trusts

Xin Wang<sup>1</sup>, Yuqi Xiao<sup>2,\*</sup>

<sup>1</sup> School of Business, Macau University of Science and Technology, Macao 999078, China

<sup>2</sup> School of Law, Guangdong University of Technology, Guangzhou 510520, China

\*Correspondence author.

## Abstract

China's special needs trust system provides important support for strengthening the economic life security of people with disabilities, but it has also exposed three major dilemmas in practice: "slow service implementation," "difficulty in business development," and "imperfect support mechanisms." In essence, these institutional dilemmas conceal obstacles in the financial system, and these obstacles are common in most developing countries. Within the framework of a social model, this paper reveals the generation logic of the three major obstacles in China's current financial system, specifically including financial system inaccessibility and economic exclusion, institutional capacity-based approach and legal exclusion, and the absence of public responsibility and fragmented governance. Combining the "capacity-oriented" theory, this paper provides ideas for institutional reconstruction from three aspects: capacity expansion for financial accessibility, institutional transformation of legal capacity, and capacity guarantee for the public bearing layer. The contribution lies in constructing an analytical framework combining social models and competency orientations, using special needs trusts as a starting point, thereby revealing the deep institutional logic of financial exclusion and highlighting its universality and international reference value in the context of the Global South.

## Keywords

Special Needs Trusts; Financial Institutional Barriers; Social Models; Competency Orientations.

## 1. Introduction

Special needs trusts are a special form of trust, meeting the basic institutional requirements of trusts. Their "specialness" is reflected in the fact that the beneficiaries are mostly people with intellectual disabilities or those unable to care for themselves, requiring not only scientific financial management services but also lifelong guardianship and care services. The emergence of special needs trusts can not only improve the living conditions of people with special needs and their families but also improve the relevant social security system and service system, which is conducive to enhancing people's well-being. However, special needs trusts in China currently face three major dilemmas: "slow service implementation," "difficulty in business development," and "imperfect support mechanisms." In essence, these dilemmas can be attributed to financial institutional barriers in China. Shakespeare, through the theory of "social models," reveals that disability is not an individual problem but a result of institutional barriers. This theory provides an important perspective for understanding the generation logic of financial institutional barriers in China. Based on this theory, the existing predicament of special needs trusts in China essentially reflects three layers of financial institutional barriers: financial system inaccessibility and economic exclusion, institutional capacity-based

approaches and legal exclusion, and the absence of public responsibility and fragmented governance. However, merely revealing the logic of barrier generation is insufficient to explain how institutional barriers are continuously reinforced and reproduced at the social level. Therefore, this paper uses the "capacity-oriented" theory to further reveal the reproduction mechanism of institutional barriers in the reconstruction approach section, aiming to provide ideas for institutional reconstruction. It is worth noting that the aforementioned financial institutional barriers are not unique to China, but rather a common challenge for most developing countries. Therefore, using special needs trusts as a starting point, combining social models to reveal the external logic of institutional exclusion, and using capacity-oriented analysis to examine the internal expansion of the choice capacity of people with disabilities, can not only profoundly reveal the defects of China's financial system, but also help summarize the common institutional dilemmas in developing countries, thus providing a reference for the reform of disability financial systems globally.[1]

## 2. Institutional Barriers to China's Financial System from the Perspective of Special Needs Trusts

### (1) Slow Service Implementation: Financial System Inaccessibility and Economic Exclusion

The slow implementation of special needs trust services in China is mainly reflected in two aspects: First, low public awareness. Special needs trusts are still a relatively new concept in China, and public awareness of them is generally low, even in economically developed Hong Kong. In Hong Kong, special needs trust schemes have been available for over five years, but only about 60 applications have been received. Considering that Hong Kong has approximately 70,000 to 100,000 people with special needs, this represents less than 0.1% of all applications, and only 15 accounts have been opened. Furthermore, most trust companies focus on promoting traditional trust businesses, neglecting market development in this emerging field. Secondly, special needs trusts are relatively expensive. Special needs trusts involve complex legal relationships, risk-bearing, and regulatory requirements, and include personalized services, inevitably leading to relatively high service fees. Currently, among the mainstream trust institutions on the market, Wanxiang Trust requires a minimum investment of 50,000 yuan, and Everbright Trust requires a minimum investment of 300,000 yuan, while the Hong Kong Special Needs Trust Office stipulates that the initial investment amount must not be less than 260,000 Hong Kong dollars. In contrast, the initial investment threshold for Singapore's special needs trusts is 5,000 Singapore dollars (approximately 27,000 RMB), while that for the US Midwest special needs trusts is 1,000 US dollars (approximately 7,200 RMB), enabling special needs trusts to cover more ordinary families. On the surface, the "slow implementation" of special needs trusts reflects insufficient public awareness and high costs. However, in essence, the "slow implementation" of special needs trusts reflects the inaccessibility of China's financial system. Based on the social model analysis framework, on the one hand, current special needs trusts mostly assume that the public needs to "actively understand" financial products, and have not established a mandatory information dissemination mechanism for the target group of special needs trusts. On the other hand, the current special needs trust system in China was designed from the outset to assume that high-income families are the standard users, directly excluding most disabled people who truly need to use special needs trusts from the system's threshold. In fact, this inaccessibility of the financial system is not a unique challenge in China, but a common challenge for most developing countries in similar financial system arrangements. Taking India as an example, although India provides loan support to people with disabilities through the National Financial Development Corporation for Persons with Disabilities (NHFDC), the actual number of beneficiaries is extremely small. According to the Indian Ministry of Social Justice and Empowerment's response at the end of 2024, only

88,133 people with disabilities received financial assistance in the fiscal years 2019-20 to 2023-24. According to the 2019-21 NFHS-5 survey results released by ICMR, the total number of people with disabilities in India is 63.28 million. Combining the two sets of data, it is not difficult to find that only about 0.1% of people with disabilities receive financial assistance. For most rural or low-income families, the high requirements for collateral and strict credit checks make it impossible for them to enter the system. In addition, the Bangladesh Association for Rehabilitation and Research of Persons with Disabilities (DRRA) supports people with disabilities to start their own businesses through the "Jibika" project by providing training and microfinance. However, very few people with disabilities actually start their own businesses; from 2017 to mid-2020, only 514 people with disabilities participated in self-employment. Similar logic also appears in the general microfinance system. Bangladesh once tried to include disabled people in savings and credit programs, but in practice, the proportion of disabled people among the members of savings and credit groups is extremely low, often only 0.3% to 5%. Through these transnational cases, it can be seen that the "slow implementation of services" of China's "special needs trusts" is not an isolated case, but a common problem of financial system inaccessibility faced by developing countries. This institutional arrangement not only deprives disabled groups of their property rights and social participation opportunities, but also further reinforces the cycle of poverty and vulnerability through structural exclusion.[2]

## (2) Difficulty in Business Development: Institutional Capitalism and Legal Exclusion

Currently, the development of special needs trust business in China is extremely difficult, involving both practical contradictions in service operation and conflicts between law and practice, as well as practical difficulties in asset disposal. At the service level, this is reflected in the cumbersome and complex matters, and the willingness and responsibility of guardians directly affect the quality of services: if the guardian lacks the willingness to provide guardianship, the ward needs to "pay for services," but the quality is difficult to guarantee; if the guardian is willing, it is necessary to guard against their irresponsibility or malicious intent. In both law and practice, individuals with special needs are often persons without or with limited civil capacity, requiring guardians to act as their agents in establishing trusts. However, the Trust Law requires settlors to have full civil capacity, resulting in a limited number of trustees willing to accept special needs trusts in this manner. Furthermore, when trust cash is insufficient to meet the beneficiaries' remaining needs or other assets require value for the beneficiaries, settlors face difficulties in disposing of non-cash assets. Currently, non-transactional transfers are difficult to achieve in trust practice, and directly including non-cash assets in special needs trusts incurs high tax costs.[3]

The difficulty in conducting special needs trust business stems from institutional capacity-based approaches and deep-seated legal exclusion. Institutional capacity-based approaches refer to the system using "full civil capacity" as the core standard for acquiring rights, failing to consider the special needs of people with disabilities or provide suitable support mechanisms. Legal exclusion manifests as implicit restrictions on the target group in the system's design. Article 12 of the Convention on the Rights of Persons with Disabilities (CRPD) states that contracting states shall recognize the equal recognition of persons with disabilities before the law and their equal legal capacity with others. According to the Trust Law, settlors must possess full civil capacity. This prevents most people with disabilities, who constitute the core potential beneficiary group, from directly establishing trusts, forcing them to rely on guardians as agents. However, existing laws lack supporting rules to facilitate such agency arrangements, and financial institutions tend to refuse such cases due to unclear risks. In short, the system excludes the most vulnerable group of people with disabilities at the entry point with a "capacity threshold," revealing both the neglect of diverse needs by meritocracy and the

exclusionary nature of legal design for special groups. This clearly contradicts the principles of the CRPD (Comprehensive Financial Policy Act).[4]

In fact, this financial system obstacle is not unique to China but a common flaw in the financial systems of most developing countries. For example, Nigeria's institutional meritocracy in the financial system offers very few financial service options for people with disabilities, who often struggle to access payment services, loans, pensions, and insurance from financial institutions. Visually impaired individuals, in particular, often require accompaniment when accessing financial services, which exposes their personal information to the risk of leakage. Furthermore, a study shows that less than half of banks in Nigeria are equipped with wheelchair ramps, and approximately 57.1% of banks do not have wheelchair access points. Among banks with accessible facilities, only 29% of security personnel are aware of the existence of these access points. This institutional neglect of the special needs of people with disabilities is a direct manifestation of institutional capacity-based financial systems in Nigeria.

### (3) Insufficient Support Mechanisms: Absence of Public Responsibility and Institutional Fragility

The insufficient support mechanisms for special needs trusts in China are mainly reflected in the fact that relevant regulatory systems are still in the exploratory stage. On the one hand, due to the prudent consideration that excessive regulation may stifle market innovation or trigger systemic risks, Chinese trust regulators generally hold a conservative attitude towards new risk points. However, once they fall into regulatory "leniency," high-risk and illegal businesses will take the opportunity to expand. On the other hand, currently, the Trust Law and other relevant regulations are still lacking in core norms such as the specific responsibilities of trustees and fiduciary principles. The basic framework for trust property transfer, registration, and tax incentives is still missing, and service standards and supervision mechanisms also need to be clarified. For example, the Trust Law only vaguely states regarding public welfare trusts that supervisors have the right to file lawsuits in their own name to protect the interests of beneficiaries. However, the content of trusts for other benefits, as a major form of trusts for special needs, still needs further clarification.

From a social model perspective, the inadequacy of China's trust industry support mechanism essentially reflects the absence of national public responsibility, which easily shifts financial risks and institutional costs to the most vulnerable groups. A similar logic is reflected in the mutual aid financial models of Rwanda and Uganda. The 560 savings mutual aid groups (approximately 14,112 participants) established by the Rwandan Federation of Disabled Persons in cooperation with international organizations, and Uganda's DIG project (planned to cover 2,700 households, of which at least 15% are disabled) are essentially "project-based," relying on external funding and lacking institutional connections with national finance and formal finance. Once project funding is interrupted, the mutual aid groups may be unable to continue. More importantly, the mutual aid mechanism's fund pool is small and the loan cycle is short, which may not be able to cover the financial arrangements needed for long-term care, rehabilitation, and retirement for disabled individuals. This demonstrates that the financial systems in Rwanda and Uganda have not fundamentally eliminated barriers for people with disabilities within the formal financial system. Instead, they leave them to eke out a living through self-help and mutual aid on the margins. This "alternative finance" highlights the absence of state public responsibility. Returning to the discussion of the "insufficient support mechanism" of special needs trusts in China, the social model reveals that this "insufficient support mechanism" is not a natural result of fiscal constraints, but rather a deliberate shift of responsibility from the state to families, the market, and social organizations, thus placing people with disabilities in a long-term "second-class citizen" position within the financial and social security system.

### 3. A Restructuring Approach to China's Financial System from the Perspective of Special Needs Trusts

#### (1) Expanding Financial Accessibility

To address the dilemma of "slow service implementation," the key to institutional reconstruction lies in expanding the financial choices available to people with disabilities. The current financial system, with its high barriers to entry and complex procedures, excludes most families with disabilities from access, depriving them of opportunities even if they have needs. A capacity-oriented approach requires that the system should not assume "proactive adaptation," but rather create the possibility of universal access through reasonable convenience. This means that adaptation arrangements for people with disabilities must be embedded in all aspects of the process, including identity verification, information dissemination, and product pricing. Only in this way can the financial system not merely provide nominal choices, but create "real choice capacity," enabling people with disabilities to access and use financial instruments on an equal footing with others, thereby preventing institutional exclusion from perpetuating social inequality.[5]

#### (2) Institutional Transformation of Legal Capacity

The root cause of the "difficulty in conducting business" lies in the system's reliance on "full civil capacity." This capacity-based logic institutionally excludes people with disabilities. Institutional restructuring cannot stop at simply improving guardianship mechanisms; it should transform the legal status of people with disabilities through a capacity-oriented approach, enabling them to participate in financial services as individuals. Specifically, the financial system should recognize the inherent legal capacity of people with disabilities and provide necessary procedural assistance to ensure they can make independent financial decisions. This institutional transformation not only helps to dismantle the traditional legal capacity threshold that restricts people with disabilities, but also expands their real choice capacity in the financial field by granting them direct right to choose.

#### (3) Capacity Guarantee of the Public Burden Layer

The "insufficient support mechanism" highlights the absence of national public responsibility, leaving the financial system operating on a fragile foundation for a long time. Capacity-oriented approaches emphasize that the system should expand the long-term choices available to people with disabilities in terms of livelihood security, old-age care, and support through public finance and legal frameworks, rather than shifting responsibility to families or the market. Therefore, it is necessary to establish a universal public burden layer, institutionally linking the financial system with the social security system to ensure that people with disabilities have sustainable institutional support when facing risks. This not only means increased fiscal investment but also that institutional arrangements need to grant people with disabilities the right to "freedom from dependence." In other words, the institutionalization of national public responsibility is a prerequisite for people with disabilities to escape the status of second-class citizens and a fundamental guarantee for them to realize their true capacity for choice.

### 4. Conclusion

This paper takes China's special needs trusts as a starting point, revealing their predicament and, based on a "social model" framework, deeply analyzing the generation logic of deep-seated financial institutional barriers. It further uses "capability-oriented" theory to explain how institutional barriers are continuously reinforced and reproduced at the social level. The financial institutional barriers revealed in this paper are not unique to China, but rather are common challenges faced by most developing countries. Therefore, by analyzing China's financial institutional barriers and comparing them with relevant cases in other developing

countries, the universality of financial institutional barriers can be revealed within the context of the Global South, providing theoretical support and critical reference for the restructuring of international financial institutions.

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