

# Research on the fundamental principles and system guarantee of homeschooling legal system

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**Abstract**—To build a homeschooling legal system, and to form the domestic homeschooling legislation at all levels, is the necessary legal guarantee to realize the healthy development of homeschooling. This paper analyzes the necessity and importance of building the legal system for homeschooling, in the meanwhile studies the basic principles of homeschooling legislation, and constructs the specific legal system for homeschooling legislation.

**Index Terms**—Homeschooling, Legal system, Construction research

## I. INTRODUCTION

The main objective of the law of homeschooling is to adjust homeschooling relationship. To form and maintain an orderly, reasonable, and continuously optimized family relationship under today's social context and population structure, which would perfect the comprehensive educational system of the national youth generation, is the important goal of enhancing the development of homeschooling. To build a homeschooling legal system and to form homeschooling legislation at all levels is a necessary assurance for realizing the healthy development of homeschooling.

## II. THE NECESSITY AND SIGNIFICANCE OF CONSTRUCTING LOCAL HOMESCHOOLING LEGAL SYSTEM

### A. The challenges for homeschooling brought by the current family situation

Since the implementation of quality-oriented education in China, though new progress is made, it has been continuously receiving the deep-seated impact from the exam-oriented education. Studies have found that a good student, one with high moral standards in the society, a successful man, is raised in a good family influenced by the good atmosphere of the family. In contrast those students who have problems at school later have problems when entering the society, most of their sources of problems can be traced back to their particular family environments. According to the President of China Criminology Society, professor Kang Shuhua of Peking University law, his survey shows that in 1965 juvenile delinquency accounted for 33% of the total social criminal activities, which is the lowest in the world. In

recent years, delinquency accounts for 70% to 80% of the total criminal activities in the society. Juvenile crime takes place in society one that was formed in schools, but it was planted in family. Grim reality calls for the strengthening and improvement of homeschooling.

### B. To ensure that the legal status of homeschooling and its overall development through legislation

Presently, China has enacted the “Education Act”, the “compulsory education law”, “teachers’ law”, “higher education law” and other legal series, consolidating the legal status of school education, however there has not yet been legislation aimed specifically at homeschooling or home education and its management, homeschooling is still being considered as subservient to the school at edging and weak position. Its rightful place in the system of national education has not drawn enough attention. Due to the lack of homeschooling legislation, the legal status of homeschooling has not been confirmed for long time. The administration of the related personnel, the hatching and developing of the homeschooling market, the investment on homeschooling and its quality assurance, and further research of homeschooling theory, etc, are also severely affected. Therefore to accelerate the legislation process of homeschooling and to give it a proper legal status will only ensure the importance of homeschooling, and promote the coordinated development of the education system as a whole.

### C. Through successful parenting experience can be summarized, identified, and promoted through legislation

Since the reform and opening of the Chinese society, through the education practice, the connotation of homeschooling have been continuously developed, the science of homeschooling has been escalating, successful parenting experience are widely observed. Generally speaking, China's successful experience of homeschooling can be observed in the following areas: First, the formation of the women's Federation supervision under the leadership of the Communist Party Committee and related groups participate in the social work. Secondly, the development and implementation of a number of normative documents and systems and the formation of a standardized management system. Thirdly the guidance of homeschooling network is basically formed as well as the operation mechanism and

constitution. Fourthly women's Federation organizations and schools continue to renovate, to develop diversification to meet the needs of different groups of parents, to develop a wide range of homeschooling guidance. The fifth is to guide domestic implementation of quality education, to improve and strengthen the already formed society-wide consensus on homeschooling. The sixth, the research and practice of homeschooling continue to expand in depth and breadth. There is an urgent need to systematically further institutionalize and standardize the above successful experiences, which is the assurance for the healthy development of Chinese homeschooling.

*D. To ensure the healthy growth of teenagers and their later achievements through legislation*

Along with the economic development and social transformation, new situations and new problems of homeschooling emerges in China, many negative effects has been brought to the healthy growth and achievements of teenagers. Mental punishment, domestic violence, child abuse, child rights and dignity deprivation is happening, abnormal deaths of young children in the family occurs; juvenile crime tends to happen at younger ages; It gets severer the phenomena that young people become lazier and not willing to have normal lives who eventually have become burdens of the families which creates social instability. In fact, many young people develop the above problems, even on the road to delinquency. The reason roots back in the family, their behaviors are reflected in the school which would eventually harm society. Therefore, through legislation, homeschooling can be guided and regulated toward the normal way. To improve the science of homeschooling could, on one hand, prevent delinquency, on the other hand meet the demand of healthy growth of the youth both physically and mentally.

*E. The public is taking homeschooling seriously, now it is time for the government to set homeschooling on legislation*

Currently, people are taking homeschooling seriously, homeschooling legislation is in their favor. The public awareness of the role and meaning of homeschooling have reached a certain level. People are demanding better homeschooling services and they'd like to be backed with proper legislation. When talking about Government's role in homeschooling, most people believe that the Government should play as an organizer as well as a supporter who provides strong support for homeschooling. The public could have a clear understanding and a full picture of the function of the Government. It also reflects the demand of improvement of homeschooling of the public in the long term, where their interests are guaranteed by the policy, and the Government can take the major responsibility.

### III. BASIC PRINCIPLES OF THE LOCAL LEGISLATION OF HOMESCHOOLING

#### *A. The principle of people-oriented*

The principle of "people-oriented", which should be on one hand reflected in legislative intention of the "homeschooling Act", on the other hand to be reflected in some of the specific provisions on the content. In terms of legislative purpose, the promotion of youth development and the building of harmonious society should be prioritized; From the perspective of provisions, differentiated legislative principles based on the difference among families should be paid attention to. As for disabled families, divorced families, families of minors, more support and services should be provided when implementing homeschooling services, schools also need to provide special counseling courses for major violations or parents whose children are of special behaviors.

#### *B. To establish the status of legal principles relating to homeschooling*

Repositioning homeschooling, to understand scientifically its value and role, and handling of homeschooling in the education system as a whole as well as the relationship with other forms of education, is a prerequisite to conduct homeschooling legislation. It is believed that homeschooling legislation should focus on establishing the legal status of homeschooling. Visions and attitude are important, the homeschooling should be considered on the level of national and local development, favors in social advancement and personal growth of high articulate. Only in this way the situation can be improved when homeschooling is ineffective, inadequate funding available, lack of management, or insufficient protection by legal measures.

#### *C. Advocacy principles*

In local homeschooling legislation, advocacy and non-mandatory provisions should be adopted in developing legal provisions. On the whole, the development of homeschooling law should not pursue a compulsory, exemplary provisions, on the contrary advocacy principled terms should be used. In some cases even encouragement, incentive terms can be emplaced. these principles are also proven by Taiwan experience. The reason behind it is that when aiming for law enforcement, corrections, it will greatly reduce the positive significance of homeschooling legislation, which is against the original legislative intention, on the other hand it may result in violating the fundamental rights of the individual and invades one's privacy, which creates "offside" and "excessive" for homeschooling. Of course, with the enactment of the law in the future, along with its applications, things will get mature with appropriate adjustments and amendments.

#### *D. Scientific and operational principles*

The So-called scientific principle refers to the legislation of homeschooling both in terms of programming and content should follow a reasonable approach which does not violate scientific laws. Law is

different from moral, its standards should be measurable and specified, rather than "Puppy Love" which is intangible emotional phenomenon. If the judgment is not measured by the standards implemented, there will be less operational tactics available in the execution of the law. Thus legislation would only exist in name only.

#### *E. The principles of featuring local characteristics*

Homeschooling an education as a uniquely human phenomenon has its similarities and commonalities, however, due to the different historical and cultural traditions, in different countries, different regions, homeschooling obviously has its special features. This makes it possible for homeschooling legislation to be varied from different countries, different regions with their highlighted characteristics. Homeschooling legislation in the city of Anshan could learn from the ideas, experiences and good practices of other countries and regions'. Based on national conditions and the reality, inheriting from the tradition homeschooling legislation should be with Chinese characteristics and characteristics of Anshan. Only by doing so can the law of homeschooling be brought forward with visions, a scientific one, a contemporary one and with its own features.

### IV. THE CONSTRUCTION OF THE SPECIFIC LOCAL HOMESCHOOLING LAW SYSTEM

#### *A. Home delivery system*

First of all, to clarify the subject of homeschooling. The subject of homeschooling are parents or other legal guardians. The recipient of the education are children under age. This subject should be consistent throughout the whole legislation, including names, concepts, ideas, etc. Secondly to clarify the connotation and denotation of homeschooling, from the perspective of the homeschooling theory, it does not have to be clarified the "homeschooling" concept in local legislation. However, from the operational point of view, it should be clear in the legislation the extension of the family. Extension of homeschooling shall include at least the social morality, family values, life skills, behavior and psychological education, and other education stipulated by laws and regulations. Therefore, on one hand it reflects the basic properties advocated by the local homeschooling legislation. It clarifies on what should be done to facilitate public understanding and common understanding of homeschooling activities. On the other hand, It allows parents or other guardians, administrative bodies, social groups, businesses and other types of entities to implement measures and operate under the law. Thirdly it tells the responsibilities of parents or other guardian living with minor children. this responsibility is a prerequisite for implementation of homeschooling of parents or other guardians. Forth, it points out a parent or other guardian's obligation to accept training or guidance of homeschooling. Parents should accept the obligation gauged by homeschooling that training or guidance is clearly necessary. Fifth, to specify terms for

homeschooling for special families. Local legislation should be imposed on special homeschooling of minors with special focus to ensure equal implementation of homeschooling. Including divorced families, reconstituted families.

Parenting responsibilities should be specified in divorced families, family of divorced spouses and restructuring of step-parents. They are also bonded with the obligations of homeschooling. Finally, relief measures should be pointed out when parents or other guardians are unable to implement homeschooling. Parents or other guardians of one of the following circumstances, minor can complaint to the school, at the parents or other guardians' places of work, to the village (neighborhood) committees, women's federations, civil affairs departments, minors protection organization, requests for assistance, or report to the police. The relevant organizations should deal with it timely: (1) One does not fulfill family responsibilities neglect children or make hazardous condition, (2) homeschooling with violence and insults, (3) deaths of parents, disappearances, serious illness, severe disability, or both parents serving sentences, In compulsory detoxification settings and other circumstances which make it impossible to fulfill family responsibilities.

#### *B. Steering system*

Firstly, to make clear guidance for homeschooling obligations. Responsible schools for homeschooling guidance, including primary and secondary schools and kindergartens; to clarify the supporting role in the process of instructing homeschooling methods for teachers training institution and other institutions in the dissemination of family knowledge. Furthermore, the research function of teacher training schools is to be specified in the homeschooling guidance work. Then, a collaborative system is to be established. On the operating mechanism, in primary and secondary schools and kindergartens there should be regular meetings of parents during which communication on minor education information and information on homeschooling and school education are made. Should parents or other guardians have difficulties in fulfilling their family responsibilities, schools should provide homeschooling guidance and assistance in a timely manner. Mandatory communication system should be set up, should parents or other guardian not participate in school activities in response to the request, the school should contact the responsible people in a timely manner. Minors in school committed disciplinary misconduct, illegal or other harmful activities, schools should inform their parents or other guardians timely. When Unable to reach their parents or other guardians or after notification, ones still fail to meet with family obligations, schools should make the designated organization or village (neighborhood) committees informed.

#### *C. Community participation*

First, to clarify the subject of social participation, including government agencies, commercial services,

public organizations and other entities should all make full participation in homeschooling. Secondly, specify each party's role and play. The role of marriage registration agencies, hospitals, maternal and child health care institutions are set to be promoting and guiding the implementation of homeschooling. Homeschooling responsibilities of children's social welfare institutions for children with special needs, and minors relief agencies are to be clarified. To make it clear the guidance, training, information and education functions of women's federations and other community groups in homeschooling. Finally, commercial homeschooling services providers should be given detailed specifications.

#### *D. Guarantee and incentive mechanism*

First, the functions of Governments must be clear. The homeschooling guidance services provided by Municipal, district (County) Governments should be included in the public service. A homeschooling guidance service system is to be set up. Municipal, district (County) Government should provide homeschooling guidance for minors and their families, and priority should be given to the orphans, unattended, mobility, abandoned, stray, single parents or parent is incarcerated, in compulsory detoxification settings and other minor families and families in poverty-stricken areas and ethnic minority areas. Municipal, district (County) Government homeschooling and training system should be established to develop homeschooling training program, training materials, programs to train homeschooling professionals. Municipal people's Government shall formulate the outline of homeschooling, according to the children's age, mental and physical development, characteristics, and living conditions, to determine the focus of homeschooling respectively. Municipal, district (County) governments should use various way of communication and propaganda to advocate knowledge about homeschooling, to create the culture of homeschooling. Radio, television, newspapers, the Internet and other media should be based on thematic programs, feature stories, columns, public service announcements and other forms, to advocate knowledge about homeschooling.

Secondly, To establish Government routine mechanism. Homeschooling involves a number of government departments, there is the need to establish an appropriate system and working mechanism of the organization. Local legislation coordination mechanism should include three levels, first of all the municipal and district governments committees on women and children organization, are responsible for coordination, guidance and supervision works; the second is built the work frame for the women's Federation, and education sector to lead the work of homeschooling; the third is to clarify the roles of health and family planning, public security, Committees and other related department as units provide support for education work carried out within their respective mandates.

Thirdly, a supervision and incentive mechanism is to be formed. Municipal and district (County) Government

should develop a parenting plan and an annual work plan, enclose homeschooling into its educational supervision. Homeschooling supervision and assessment system should be established. Rewards and recognition shall be made on the family units and individuals that have made outstanding achievements and contribution.

Finally, the legal responsibility is to be outlined. To protect the fundamental rights of citizens, and considerations to prevent local legislation "over authority", legal responsibility of the local education legislation should be general rather than detailed and would not be appropriate to specific disciplinary liability. In terms of specific legislation, Types of violations can be clearly identified, including violations of the parents or other guardians, illegal activity of administrative bodies and their staff, violations of social groups or business services. But in terms of specific behaviors, more general regulations should be implemented. However the standard of specific illegal acts and other laws and regulations such as "minors", "law of protection of the rights of women and children", "civil law", "contract law" should be consistent.

In addition, in the form of legal responsibility, guidance and provision should be adopted, Related specific offence should bear civil or administrative liability, serious criminal offence shall be investigated for legal responsibility with respect to the civil, administrative or criminal law.

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