

# Construction of Evaluation System of China's Occupational Licensing

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**Abstract:** the occupational licensing is regarded as an important means to evaluate the allocation of labor resources under the market economy system in China. While its development has achieved positive results for many years, the abuse and generalization of occupational licensing are widely criticized. This paper analyzes the historical and economic background differences of the formation of occupational licensing. Through the empirical data analysis of China's occupational licensing reform, it points out that the reform lacks a scientific evaluation mechanism in terms of interest balance and related rights protection. Therefore, the establishment of the evaluation system of system effectiveness, fairness and relevant system fit will be more conducive to the effectiveness of the reform.

## 1. Introduction

### 1.1 Occupational Licensing in Developed Countries is rooted in Social Autonomy

The modern occupational licensing actually has an ancient historical origin of private law autonomy [1], The medical occupational license originated from Germany, Spain, Napoli and Sicily from the 13th to 14th century [2]. In the middle ages, guilds also set up various occupation admittance qualifications in many occupations [3]. The early colonists of the United States also set professional qualifications for bakers, porters, bartenders, lawyers, leather merchants and peddlers. In the true sense, the modern occupational licensing originated in the late 19th century. More than half of these countries set up professional qualifications in doctors, dentists, pharmacists or lawyers [4]. From a global perspective, the modern occupational licensing is established in some countries with more developed commodity economy and more mature social industry organizations under the background of the development of market economy to a certain level. As early as the middle of the 19th century, with the development of market economy, many industry associations and associations appeared in Britain. These industry associations were mainly association (institution) members. They formulated occupational licensing standards, and realized individual qualification evaluation and early social management. Through the examination of the applicant's educational background and years of professional practice, the society determines whether the professional meets the standards set by the society through examination or assessment. The United States is also one of the earliest countries to implement the occupational licensing, and has formed a complete legal system and management system. The characteristics of the occupational licensing in the United States are not unified management by the federal government, but regional management by the state government. Its occupational licensing can be generally divided into two categories: legal management and industry management, which have great responsibility for some, and social communication the professional (type of work) with strong usability and public interest has clear legal provisions as compulsory industry access. The occupational licensing of industry management is the occupational licensing managed by industry self-discipline, and most of them have a long history of development.

### 1.2 The Brand of Planned Economy in China's Occupational Licensing

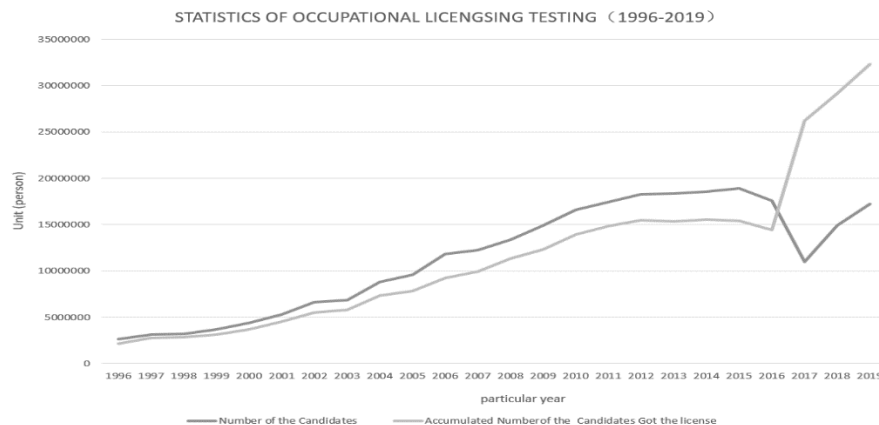
China's occupational licensing was established in the transition period from planned economy to market economy. In the 1990s, it was borrowed from developed countries to replace the technical grade assessment system in the period of planned economy. China's industry associations and other

social organizations are not mature, and the system lacks the corresponding social foundation. It is not a long time for China's economy to develop from planned economy to market economy. The replacement of technical grade assessment system by occupational licensing has not experienced the so-called running in process.

## 2. Analysis on the Current Situation of China's Occupational Licensing System Reform

### 2.1 An Empirical Analysis of the Expansion and Reduction of Occupational Licensing

Since the promulgation of the Interim Measures for the occupational licensing in 1995, the total number of occupational licensings has increased rapidly. However, since 2013, the state has reformed the system, cancelled 434 occupational licensings in seven batches, and retained 140 in the catalogue of national occupational licensings. This table collects the basic information of vocational skill appraisal from 1996 to 2019, which is available at present [5]:



From 2013 to 2019, although the proportion of national occupational licensing reduction has reached 70%, the number of people who participated in the appraisal and obtained the certificate has not changed greatly, so it is difficult to judge the actual effect of the reform.

### 2.2 Occupational Qualification Recognition in Chengdu from 2017 to 2019

By investigating the work of the Department in charge of professional and technical personnel management of Chengdu human resources and Social Security Bureau in recent three years, it is found that the traditional administrative and simplified reform mode is still continued in the reform of occupational licensing, but the reform process is lack of continuous arrangement and consideration of institutional reform. Its specific performance in the following aspects: first, in the implementation of the system reform, emphasis on the plan, light evaluation, in the 2017 work plan will implement the “reform plan” as the main point of the work, but did not summarize the reform effect in the later stage; second, lack of institutional mechanism, institutional construction, put forward the idea of orderly decentralizing the power of occupational licensing and establishing the normalization of occupational licensing clearance Third, the work lacks continuity. In addition to the work plan in 2017, there is no mention of the construction or reform of the occupational licensing in 2018 and 2019.

Generally speaking, the current reform of China's occupational licensing, no matter the country or a region, lacks sufficient planning and design and effectiveness analysis of the reform effect, and fails to realize the original value of the system.

## 3. Evaluation System of Occupational Licensing

### 3.1 Evaluation of the Effectiveness of Occupational Licensing Setting

#### 3.1.1 Restrictions of Occupational Licensing on Employment Freedom

Although the setting of occupational licensing has the positive effect of screening the main body of labor market and identifying and regulating them, it also has a great negative effect. At present, it

is found that the biggest risk of the system lies in the restrictions on labor market access, which will greatly affect other potential workers' professional freedom and market free competition. Some scholars believe that the important way to improve the income of workers is to restrict free competition (Kliner and Krueger, 2013). When the power to issue occupational licensing is granted to industry associations, the risk of restricting competition becomes more prominent. These industry associations form a small identity body because their members are relatively stable and have common interests. For the sake of its interests, the association may limit the competition and improve the income of its members, and even influence the legislative process through interest groups.

It is precisely because of the awareness that the occupational licensing may cause restrictions on free competition and affect market vitality that China vigorously reduces the reform of occupational licensing. Therefore, we should evaluate the rationality and appropriateness of occupational licensing setting from two aspects: one is whether the occupational licensing is inappropriately set in the occupations that can be independently managed by the labor market; the other is whether the conditions are appropriate, the procedures are appropriate, and the number of occupational licensing certificates is consistent with the market demand. It can be seen that it is necessary to carry out dynamic evaluation before, during and after the setting of admittance professional qualification.

### **3.1.2 The Setting Cost of Professional Qualification**

The system of occupational licensing has cost to both the issuers and the workers who apply for it. Some scholars believe that the system cost of occupational licensing is “the direct cost of the vocational licensing procedure, which includes not only the operating cost of the vocational licensing authority (administrative subject), but also the price paid by the vocational licensing applicant (administrative counterpart) to comply with the procedure.” For administrative organs, the cost of implementing occupational licensing depends on the design of procedural mechanisms such as occupational licensing setting, application, assessment, examination and publicity. A large number of studies have found that, compared with complex and special rules, those simpler and ordinary rules usually have more advantages.

At present, the cost mentioned by Chinese reformers mainly refers to the direct cost for workers to obtain professional qualification. In fact, the administrative organ of occupational licensing has transferred the cost to the applicants through charging, and has not considered the indirect cost of realizing the scientific management of professional qualification.

## **3.2 Analysis on the Protection and Fairness of the Rights and Interests of the Subjects Related to the Occupational Licensing**

### **3.2.1 Protection of Occupational License and Status Rights**

The identity rights of occupational license holders include human rights and property rights. On this basis, they can be subdivided into several specific rights, such as professional rights, identity rights, economic rights, honor rights, working conditions protection rights, vocational training rights and so on. However, the relevant laws and regulations involved in China's occupational licensing do not define the relevant rights of practitioners with professional qualification, nor do they provide for the protection of the rights and interests of practitioners.

Only when these rights are fully respected and protected, can the right of occupational license and identity become concrete and real. Legislators should clarify the legal status of occupational license and identity rights in legislation.

### **3.2.2 Protection of Workers' Right to Freedom of Occupation**

At present, China has completed the reform of the occupational licensing, with the reduction of occupational licensing as the main content. 70% of the original occupational licensing certification projects have been reduced. This reform reflects the full trust in the effectiveness of the market and the complete abandonment of the past government regulation and intervention. Therefore, in the process of the reform and reconstruction of the occupational licensing, it is necessary for us to study

and judge the system scientifically and achieve the best “input-output” after the implementation and operation of the system. This kind of scientific research and judgment should not only focus on the economic cost and economic output of the system, but also on the protection of professional qualification, identity rights and labor freedom rights involved in the system.

### **3.2.3 Protection of Public Interest**

The important value of establishing occupational licensing in developed countries is to protect the public interest, eliminate information asymmetry through occupational licensing, and protect the general public except the practitioners and ordinary workers who have obtained occupational licensing. However, in fact, whether the occupational licensing in China was set up at the beginning or the reform started in 2007, “public interest protection” does not seem to attract the attention of policy makers or legislators. Until 2017, the Ministry of human resources and social security issued the reform plan of the system, and the guiding ideology, basic principles, objectives, tasks and working measures of the plan did not mention the protection of public interests.

## **3.3 The Evaluation of the Fit Degree between the Occupational Licensing and Related Systems**

### **3.3.1 The Agreement Degree of Legal System**

The occupational licensing has considerable complexity in terms of both management function and legal system function. Its content involves administrative law, labor law, education law, civil law and other legal systems. The previous system construction and reform focused more on its administrative function, ignoring the macro and comprehensive research on the system. On the whole, there are still problems in the following aspects: first, the existing system and system reform still retain the brand of planned economic system and administration, which is mainly manifested in the simple administrative arrangement and the lack of legal theory construction of the system; second, some basic rules are unreasonable and the internal system is somewhat chaotic, on the one hand, it is forbidden to learn to set qualifications on their own, on the other hand, it is not publicized” More enterprises, industries and social organizations play an important role in talent evaluation; the third is the imbalance of weight, which is manifested in the legal system of attaching importance to public law and ignoring private law, attaching importance to qualification setting and neglecting supervision and implementation; the fourth is the lack of operability of the legal system, which lacks basic relief channels as a legal system to improve labor trading efficiency and protect public interests.

### **3.3.2 Fit with the Labor Rights Security System**

The system of occupational licensing is not only a guarantee system for workers' rights, but also a restriction system for labor rights. Labor right is one of the basic civil rights established by the Constitution and law. The exercise of some of its rights will be affected by the system of occupational licensing.

Obviously, from the current reform of China's occupational licensing , the “occupational licensing” stipulated in Article 48 of the employment promotion law is obviously different from the “occupational licensing” in the “reform plan for further reducing and standardizing the licensing and recognition of occupational licensing”. How to coordinate the relationship between the reform of occupational licensing and the labor rights security system will still be the direction that we need to continue to work hard. One is to make the exercise of workers' basic rights not subject to improper restrictions. The other is how to make the right to receive vocational education and vocational training included in the system be implemented.

### **3.3.3 Fit with Vocational Education System**

The fit degree of occupational licensing system and vocational education system will largely determine whether a country's occupational licensing can play its due role. On the one hand, the occupational licensing can guide workers to increase investment in human capital, so as to change

or improve a country's economic growth model; on the other hand, a perfect vocational education system is a prerequisite for the quality of occupational licensing certificate. China's occupational licensing system is more positioned as an evaluation system, and vocational education is not included in the scope of occupational licensing system. From the practice of occupational licensing reform in the UK, the occupational licensing can well connect industries, enterprises and vocational education. Occupational licensing can also play the role of external support and internal guidance for vocational education. Therefore, the reform of China's occupational licensing can not only reduce and weaken blindly, but also scientifically design the occupational licensing under the condition of vigorously developing vocational education.

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