

The Construction of the Legal System of the School Sports on the Socialist Rule of Law

Xiaohua Ma

School of physical education, Taishan University, Taian 271000, china

email: mxh8682067@163.com

Keywords: Socialist rule of law; School sports; Legal system; Construction

Abstract: School physical education is the foundation of social sports and competitive sports, and is an important part of China's educational cause. The healthy development of school sports needs the regulation and guarantee of laws and regulations. In the process of school sports development, the realization of students' sports rights and the proper settlement of school sports injury accidents need to be solved through legal means. This article uses the logic analysis method and the document material method and so on, starts from our country legal system constitution, has analyzed our country present school physical education laws and regulations construction present situation, proposed our country school physical education law system construction countermeasure.

Introduction

With the rapid development of China's social economy, people's leisure time gradually increased, sports has gradually become a part of life, at the same time, the role of sports in social development has been more and more attention. The development of social sports depends on the development of school sports to a large extent, and the long-term development of competitive sports is still based on school sports. Only with the development of school sports, students who come out of school can develop the awareness of lifelong sports and drive people around them to participate in physical exercise. Only with the development of school sports, can we continuously provide excellent reserve talents for competitive sports. Therefore, the development of school sports affects and restricts the development of other sports.

The Inevitability of the Construction of School Sports Under the Rule of Law

The key to the healthy development of school physical education is to realize the legalization construction of school physical education and fix all the work of school physical education in the form of legislation. "Rule by law, building a socialist country under the rule of law" is a basic strategy of our country, the construction of school sports rule by law is an important part of "Rule the country by law" and "Governing sports according to law". At present, there are many problems in the development of school physical education in our country. At the same time, the legal system of school physical education has not been established, the legislation of school physical education is not balanced, and the legislation is not systematic, which leads to the phenomenon that school physical education work cannot be depended on, and the law is not complied with, which seriously affects the development of school physical education. Therefore, it is great significant to study the construction of school physical education legal system in the context of socialist rule of law and to promote the development of school physical education.

The Legalization Construction of School Physical Education is the Need of Self-development of School Physical Education. School sports is the foundation and key to the development of social sports and competitive sports. With the development of society and the requirements for the development of school sports, there are many problems and contradictions between the development of school sports and the development of society. The key to the healthy development of school physical education is to have sound legal management means and environment. The

development of school physical education needs the construction of rule of law and is the need of its own development. The main purpose of school physical education is to strengthen students' physique, cultivate students' interest in sports and develop lifelong sports. Therefore, in the process of school physical education, we must ensure the realization of students' sports rights through legal means. The period of school sports career is the key period of students' physical development. The task of promoting students' physical and mental health must be consolidated and developed by legal means.

The CPC central committee has clearly put forward to build a well-off society in an all-round way and build a harmonious society with Chinese characteristics. Under the background of national harmonious society construction, school physical education, as an important part of physical education, is closely related to the development of society. At the same time, our country clearly put forward the construction of the rule of law of socialism, the construction of the rule of law of school sports is the need of social development. The development of school physical education must face the needs of harmonious society and the construction of rule of law and promote the pace and strength of the construction of rule of law. China's social development has also entered a period of social transformation. Under the new social development situation, how to strengthen the function and status of school physical education is also the requirement and need of social development.

Current Situation of School Sports Legislation

The construction of school physical education under the rule of law is related to the development of school physical education, and affects the coordinated development of social sports and competitive sports. The perfection and development of school physical education legal system must adapt to the perfection and development of our country's legal system and the development of our country's legal environment. Since the founding of the People's Republic of China, the legalization construction of school sports in China has made great progress. However, we should clearly realize that it is still a weak link in the work of school sports. The situation of the legalization construction of school sports still lags behind the social development. Professor Jian-hua Shen in retrospect and prospect of the our country school sports legal system construction, the article points out: "school sports legal system construction in our country there exist the following problems: school sports legislation cannot meet the demands of school physical education reform and development, impotence in terms of school sports law enforcement, law enforcement is lax, refrain from punishing law-breakers phenomenon still exist, school sports legal system is very weak." [1]

Weak Legal Awareness of School Physical Education. The development of school physical education is a comprehensive and systematic project, which involves educational administrative departments, school leadership, physical education teachers, students and their parents; Therefore, there are many factors influencing the development of school physical education. The legal awareness of the above related personnel has a crucial impact on the construction of the rule of law of school sports. Since the founding of the People's Republic of China, many laws and regulations on school physical education have been established. However, people who are involved in the development of school physical education may not know the existence of relevant laws, and even if they do, they may not know the specific contents. School leaders and physical education teachers only know the laws and regulations of school physical education in the primary stage, lack enough understanding of the specific content, do not understand the status and effectiveness of relevant laws and regulations of school physical education, so it is impossible to realize that "not offering physical education in accordance with the provisions" is an illegal act. Similarly, they also lack the necessary understanding of the rights and obligations granted by school sports laws and regulations, which makes them not know how to use the weapons of law to safeguard their rights, and also fail to realize that it is an illegal act not to offer physical education classes and better physical education classes according to regulations.

Low Level and Imperfect Content of School Physical Education Legislation. According to the relevant provisions of China's legislation law, the higher the legislative level is, the higher the legal effect is and the stronger the legal binding force is. Up to now, there are few high-level school

sports legislation in our country, and even the single school sports law is not available yet. In the higher level legislation, only the laws and regulations related to school sports are stipulated, such as the relevant school sports laws and regulations in the sports law and the education law. There are a lot of low level departmental regulations in school physical education laws and regulations, such as those of the general administration of sport of China, the ministry of education and all levels of government departments. In addition, there are a few local people's congresses and their standing committees promulgation and implementation of local laws and regulations, but this number is small. The low level of school physical education legislation seriously affects the effectiveness of school physical education laws and regulations and has an important impact on the implementation of school physical education.

Although our country school sports legislation is more, but the content is not perfect, and many of the laws and regulations are formulated and implemented in the planned economy period, differ with the development of the society demands more, led to the laws and regulations of interoperability is poorer, such as the school sports work regulations stipulated in the "national and local levels of sports administrative department on the funding should be as far as possible to the school sports work to support", the "should be" in the process of the implementation of the specific how should understand. At the same time, there is also a lack of punishment for legal liability for violation of laws and regulations. "the so-called legal liability refers to the special obligation to compensate, compensate or accept punishment for damages caused by specific legal facts". [2] Such as the school sports work regulations stipulated in article 28: "the superior departments and schools shall, in accordance with the school or place of of all kinds of school sports venues, equipment, equipment standards, complete in a planned way step by step", but in the relevant rewards and punishment did not punishment of legal liability in accordance with the above provisions.

Laws and Regulations of School Physical Education are not Strictly Enforced and Lack of Effective Supervision. Although many school sports laws and regulations have been formulated, there are a series of problems in the implementation process to varying degrees, among which the most prominent is the lax law enforcement and the lack of effective supervision system. Root cause of law enforcement is lax phenomenon lies in the lack of enough attention in school sports, such as the ministry of education promulgated the "basic conditions for offering education in common colleges and universities indicators administrative rules, its main purpose is to urge the colleges and universities to improve school conditions, but the hardware without the provisions of the school sports education, it fully illustrates the lack of effective supervision and management of school physical education in colleges. The occupation of physical education class should be a common thing in primary and middle schools. The fundamental reason for this phenomenon is the lack of necessary legal punishment for the occupation of physical education class and violation of students' sports rights. The lack of time for other extracurricular sports activities and the shortage of sports facilities and equipment are also important factors restricting the development of school sports. The fundamental reason for this is that laws and regulations cannot be effectively implemented.

Countermeasures for the Improvement and Sonstruction of School Physical Education Legal System

Change the Construction Thought of School Sports Laws and Regulations. The construction of school physical education laws and regulations is to follow the line that national legislation and local legislation complement each other. The construction of local school physical education laws and regulations makes up the deficiency and defect of national school physical education legislation to some extent. But in the actual implementation process, the implementation of school sports laws and regulations is poor, which seriously affects the development of school sports. The reason is that the construction of school physical education laws and regulations lags behind seriously to some extent and deviates from the social and economic development. Therefore, the construction of school sports laws and regulations should meet the requirements of China's social and economic development and sports development.

First of all, students' "sports rights" should be taken as the fundamental construction of school sports laws and regulations. Secondly, we should base on the current situation of China's social and economic development and the actual construction of school sports laws and regulations, learn from the successful experience of developed countries and the achievements of school sports laws and regulations construction. Based on the reality of their own countries, learn from the successful experience, can avoid detours. Third, improve the content of school sports laws and regulations. Although there are a large number of laws and regulations on school sports in China, the content is relatively incomplete. For example, there are no relevant laws and regulations on the protection of school sports expenditure and compensation mechanism for school sports injury accidents. Finally, school sports laws and regulations should coordinate with each other, can not appear contradictory problems.

Revise and Improve the Regulations on School Physical Education Work. Enacted in the 1990 s the school sports work regulations is the basic laws and regulations of school physical education work, is the constitution of school sports work, it is enacted to promote the development of school physical education in our country, also promote the our country school sports laws and regulations construction, but the social political and economic is developing forward continuously, more than 20 years before the school sports and school sports has great difference, after all, now is inevitable trend for the change. First of all, it is necessary to modify the regulations on physical education work in schools that are not compatible with the existing laws and regulations, so that they are compatible with China's large legal and regulatory system. Thirdly, the maneuverability of school physical education work regulation should be increased. School physical education has made great progress, but many places have not adapted to it and the maneuverability is poor. Therefore, it is necessary to modify the maneuverability and establish the legislative purpose of taking students' sports rights as the standard. Finally, the reward and punishment system of school physical education work regulations should be strengthened to clarify the legal responsibility and enhance its binding force.

Establish and Improve the Compensation Mechanism for School Sports Injury Accidents. School sports injury accidents seriously restrict the healthy development of school sports. Some schools and physical education teachers are afraid of injury accidents and cancel dangerous sports events, which is not conducive to the healthy development of students. The root cause of this situation is the lack of a sound compensation mechanism for school sports injury accidents. The promulgation and implementation of "measures for handling student injury accidents" has brought vigor and hope to the handling of school sports injury accidents, but experts and scholars have raised doubts about it from different perspectives. First of all, some experts and scholars believe that the rules and regulations formulated by the competent authorities of education go beyond their limits of authority. The measures for handling student injury accidents not only include administrative norms, but also civil norms."The formulation of rules and regulations should reflect the principle of the unification of the functions and responsibilities of administrative organs. While endue relevant administrative organs with necessary functions and powers, it should also stipulate the conditions, procedures and responsibilities to be assumed by them." [3]Second, the students' injury accident treatment measures for policymakers is the competent department of education, exists both as athletes, and when the suspicion of the referee, Dr Mr. Shen said: "the ministry of education promulgated such way is not very necessary, the administrative organs set up too many constraints, restrictions, is likely to cause unreasonable guide to justice, in practice, our country should try to avoid such a situation."[4] Dr. Mo jihong believes that "the ministry of education promulgation of administrative regulations restricting the judiciary in the form of administrative management is very likely to cause sectarianism and expand the power of administrative organs indefinitely, which will adversely affect the process of rule of law." [5]Finally, the establishment and improvement of the school injury accident compensation mechanism in line with China's characteristics, the focus of the dispute of injury accident is the issue of compensation, and the establishment of an effective compensation mechanism is an effective way to solve the injury accident. We can establish and improve the compensation mechanism through various ways, such as

establishing the compensation fund for school sports injury accident and establishing the school sports injury accident insurance.

References

- [1] JH.Shen. Sports research,Vol.24(2000)No1 ,p29-32. (In Chinese)
- [2] WX. zhang .Jurisprudence(Higher education press,China 1999), p 56. (In Chinese)
- [3] B. Chen.Journal of physical education, Vol.36(2004)No5 ,p9. (In Chinese)
- [4] GY. Ma, JW. Yi Comments on "measures to deal with student injury accidents" by legal professionals [N]. Beijing youth daily, 2002-8-27(8). (In Chinese)
- [5] L.Yin. Education theory and practice, Vol.20(2003)No11 ,p28. (In Chinese)