

Comparative Study on Physical Education Laws and Regulations Literature of Chinese and Japanese Schools

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Abstract

By using the methods of document literature, induction and synthesis, this paper makes a literature review and comparative study on the relevant research of school physical education laws and regulations in China and Japan. Japan is a developed country of school physical education in the world. In the process of building school physical education laws and regulations, there are some methods and ideas to solve school physical education problems. Therefore, it is of great practical significance to analyze the relevant research on Japanese school physical education laws and regulations and to sum up their experience and lessons. This paper quotes the viewpoints of Chinese and Japanese experts and scholars, and makes a literature review on the research of school physical education laws and regulations in Japan from the aspects of the course of construction of school physical education laws and regulations, the system of laws and regulations, legislation, justice, law enforcement, law abiding, content and problems, and comparative study.

Keywords: school physical education, laws and regulations, summary

1. Introduction

The development of school physical education cannot be separated from the construction of school physical education laws and regulations, which is the guarantee of the healthy development of school physical education. In recent years, facing the frequent occurrence of physical education injuries among Chinese students, the infringement of physical education rights and the decline of students' body constitution year by year, the Party and the government have promulgated a series of relevant school physical education laws, regulations and rules at the height of the future development of the nation. Under the background of "governing education by law" and "governing physical education by law", the laws and regulations of school physical education are also the hot spots in the theoretical research of school physical education in recent years. This paper combs the literature on the construction of school physical education laws and regulations, the system of laws and regulations, legislation, justice, law enforcement, law-abiding, content and problems, comparative studies and other current research focus issues literatures in the academic circles of China and Japan, aiming at further exploring research space, stimulating research potential and grasping the frontier.

2. Literature Review on the Research of School Physical Education Laws and Regulations in China

Every step in the development of school physical education in China is closely related to the laws, regulations and rules promulgated by the state. Its research mainly focuses on the process of laws and regulations construction, the system of laws and regulations, legislation, law enforcement, content and problems.

2.1 Research on the Course of Construction of School Physical Education Laws and Regulations

If we want to study the course of the construction of school physical education legal system in China, we must properly understand the historical stage of the construction of school physical education legal system. Han and Yu (2004) think that there are basically four historical stages:

- 1) The construction of school physical education legal system from 1949 to 1956-The early stage of New China;
- 2) The exploration period of socialist construction from 1957 to 1966;
- 3) The construction period of school physical education legal system from 1966 to 1976-the period of the Great

Cultural Revolution;

- 4) The construction of school physical education legal system from 1977 to now-The construction of school physical education legal system in the period of building socialism in an all-round way

2.2 Research on School Physical Education Laws and Regulations System

Liu and Li (2011) think that Chinese school physical education laws and regulations system can be divided into three levels with different levels of effectiveness according to different formulation of different forms of legal documents: one is related laws, such as constitution, education, law of physical culture and physical education, the other is administrative regulations, such as rules and regulations of school health work, rules and regulations of school physical education and so on; the other is departmental regulations, such as Measures for the Management of School Physical Education Work in China, Measures for Dealing with Students' Injury Accidents, and Decision on Opening Public Stadiums to the Public, etc.

2.3 Research on School Physical Education Legislation

Zhang and Chen (2012) hold that school physical education legislation is the formulation or creation of school physical education law, refers to the basic forms of school physical education legislation formulated, amended and abolished by state organs according to certain procedures in accordance with their statutory powers, and is the basic form of the generation and fundamental change of school physical education laws and regulations. And from the school physical education law-making stipulation, legislative background, legislative technology, legislative system, legislative procedures, cleaning up compilation and other aspects of analysis. In addition, there are two forms of recognition and supplement.

2.4 Research on School Physical Education Justice

Shen, Sun, and Gong (2000) think that strengthening the school physical education legal system construction includes complete legislation, strict law enforcement and sound judicial supervision. Corresponding to the overall situation of China's judicial system, China's current educational judicial system is rather weak.

2.5 Research on School Physical Education Law Enforcement

Xu and Xiao (2013) reflect on the infringement of school physical education rights and the decline of student body constitution year by year and the current situation of school physical education policies and regulations in law enforcement, and analyze the reasons for the implementation obstruction of school physical education policies and regulations. In order to guarantee the realization of school physical education rights and enhance the physical fitness of teenagers, this paper puts forward a constructive plan for the implementation mechanism of school physical education policies and regulations in order to improve the enforcement of school physical education policies and regulations.

2.6 Research on School Physical Education Law-abiding

Mao and Zhang (2010) think that the popularization law-abiding of laws and regulations of school physical education can be reflected from the legal consciousness of school physical education teachers and students. Because students and parents lack the understanding of the rights and obligations entrusted to them by the school physical education laws and regulations, it is impossible to fully use the physical education laws and regulations to safeguard their legitimate rights and interests, and even less to consciously supervise the law enforcement and law-abiding status of the administrative departments of education at all levels and the administrators of schools at all levels.

2.7 Research on the Contents and Problems of School Physical Education Regulations

1) Documentation on the Content of School Physical Education Regulations and Regulations

Facing the frequent occurrence of students' physical education injuries, violation of physical education power and the decline of students' body constitution year by year, many domestic scholars have carried out a series of studies on school physical education laws and regulations.

Firstly, the guarantee of dealing with school physical education accidents. Chen (2011), on the analysis of the tort liability law, the general principles of civil law, the law of dealing with student injury accidents and other regulatory documents, believes that the basis for schools to undertake the corresponding obligations is security, not supervision. In fact, the determination of students' security obligations in school physical education activities is a process of risk and responsibility allocation, as well as a process of balance and coordination, that is, the determination of students' security obligations in school physical education activities.

Secondly, school stadiums facilities. Tan (2010) believed that in the process of opening up school stadiums and

gymnasiums to the outside world, various physical education injury accidents inevitably occurred, and analyzed and studied the current administrative laws and regulations, civil laws and regulations, economic laws and regulations, physical education laws and regulations and other related contents.

2) Documentation on School Physical Education Regulations and Regulations

In these articles, Wan and Mo (2005), Zhao (2009) elaborated on the existing problems of school physical education laws and regulations. Through sorting out, they found that they mainly focused on the following four aspects:

First, the level of legislation is low. Generally speaking, the higher the level of legislation, the stronger the binding force of its law, the greater the possibility of legal realization. As far as our country's school physical education legislation is concerned, many laws, regulations and rules with direct operability and practicality are formulated and issued by central departments and local power organs. Their formativeness is not very strong, and they lack the binding function of legal responsibility. Their levels are mostly manifested in some regulations, measures, stipulations and notifications.

Second, implementation obstruction. The quality of implementation of school physical education laws and regulations directly affects the effectiveness of school physical education work and is an important means to achieve the goal. The reasons for obstructing the implementation of school physical education laws and regulations: The principals' cognitive ability, identification ability and the balance of interests are the main reasons for the principals' negative implementation of school sports laws and regulations.

Third, the lack of supervision mechanism. At present, there are a series of problems in PE teachers' unequal pay for equal work, random stopping of PE classes and physical education injury accidents, which are closely related to the lack of legal supervision mechanism. The imperfection of educational supervision mechanism and system makes it impossible to carry out the duty of supervising the implementation of school physical education laws and regulations; the concept of violation of law in school physical education is only theoretical.

Fourthly, the content is imperfect and ineffective. Generally speaking, easy-to-know, clear, affirmative and specific legal rules can be directly operated, so we can directly handle affairs in accordance with the law, otherwise it is difficult to deal with.

Up to now, such as the regulations on school physical education work and the law of physical culture and sports and other relevant school sports laws and regulations have been promulgated for more than ten years. In the process of the continuous development of school physical education in our country, some contents have been invalid or no longer suitable for today's requirements, but they have not been changed and amended.

3. A Literature Review on the Research of School Physical Education Laws and Regulations in Japan

After World War II in 1945, Japan removed the militarization of physical education, turned to learn from American, and educationalized physical education. In 1946, Japan formulated the Key Points of School Physical Education Guidance. In recent years, Japanese scholars have focused on two major aspects of school physical education laws and regulations: one is the research on the construction process of school physical education laws and regulations; the other is the research on the articles content of school physical education laws and regulations.

3.1 *Research on the Course of Construction of School Physical Education Laws and Regulations*

The Nakazawa (2011) holds that there are four stages to be analyzed: from the postwar period to the mid-1950s: the period of institutionalization of duality of autonomy or domination; from the late 1950s to the 1960s: the period of relaxation of domination and improvement of competition; from the 1970s to the early 1980s: the period of the trend of popularization and guaranteeing teachers' problems; and from the late 1980s to the present: the exploratory period of externalization.

3.2 *Studies on the Articles Contents of the Laws and Regulations of School Physical Education*

First, students' physical education rights. Itokaki (2009), from the sociological point of view, analyzed the constitution, the basic law of education, the basic law of physical education and so on, believed that students' physical education rights are the right to receive education or the right to exist, and students can pursue their legitimate rights by laws and regulations.

Second, health care physical education and health. Onokazu (2000) summed up the policies and regulations of school physical education health care from the postwar to 1999: three policies and three laws, which are the Basic Law of Education, the School Education Law promulgated in 1947, and the School Health Care Law promulgated in 1958, and other relevant laws and regulations, and analyzed school physical education health care.

Third, the school physical education venue. Okazaki (2008), to the existing “School Education Law” article 85, “Social Education Law” and “Physical Education Revitalization Law” and other laws, analyzed the school physical education venues and facilities open, use, management of legal protection, committed to the formulation and implementation of laws.

Fourth, physical education injury accidents. Horii (2007) believed that school physical education safety treatment, should be based on relevant policies and systems, research on the topic, to prevent occurrence of physical education injury accidents and disasters.

Fifth, school sports club activities. Kitagawa (1999), according to the principles and measures of extracurricular physical education club activities in the relevant schools of the Ministry of Arts and Science, and the analysis of the current “Key Points of Learning Guidance” and “Rules for the Implementation of School Education Law”, believed that extracurricular physical education activities in schools should be put on the level of school education.

4. A Literature Comparative Study of Chinese and Japanese School Physical Education Laws and Regulations

There are few literatures directly or related to the comparative study of school physical education laws and regulations between China and Japan. At present, the research of scholars mainly involves the comparison of the course of school physical education legal system construction, the content of physical education law, the laws and regulations of physical education injury accidents insurance, the laws and regulations of physical education, and the laws and regulations of physical education venues and facilities.

4.1 Comparison of the Course of Legal System Construction between the Two Countries

Jin (2003), analyses the construction process of school physical education laws and regulations from the perspective of great changes in the whole society, divides China into five periods: 1949-1965 as the initial period, 1966-1976 as the turbulent period, 1977-1987 as the construction period, 1988-1993 as the full-scale development period, 1994-present as the in-depth development period; Japan is divided into four periods, 1945-1958 as the empiricism period and 1958 as the empiricism period. 1959-1978 is the period of physicalism, 1978-1989 is the period of career physical education, and 1989-now is the period of personality development. She believed that the construction of school physical education legal system in China and Japan is based on different periods, different national conditions and different social needs, and their legislative purposes are also different. She also compares the historical process of organizational authority, physical education guidelines, physical education facilities and so on.

4.2 Comparison of the Contents of Relevant Articles of Physical Education Law

Zhou et al. (2004), through the analysis and comparison of the relevant articles concerning school physical education between China’s “Physical Education of the People’s Republic of China” and Japan’s “Basic Physical Education Law”. It concludes that the scope of school physical education is extensive, including physical education teaching, physical education venues, physical education accidents and so on.

4.3 Comparisons of Physical Education Accident Insurance Laws and Regulations

Wang and Yan (2011), in accordance with China’s Education Law, Minor Protection Law and Measures for Dealing with Students’ Injury Accidents, and the relevant legal provisions of Japan’s Constitution, Civil Law and Mutual Assistance Insurance for School Accidents, study and analyze the treatment ways, measures, school responsibilities and countermeasures of school physical education injury accidents.

4.4 Comparison of the Relevant Laws and Regulations of Physical Education

Xia (2007), through Japan’s “Key Points of Physical Education Learning Guidance”, explores the main characteristics of Japanese school physical education: the combination of school physical education and health education, the perfect system of body constitution testing and management system, and analyses Chinese students’ body constitution status and the development of health education in combination with China’s “Regulations on School Physical Education Work” and “Physical Education and Health Courses” believes the ultimate goal of physical education is to make students love sports and develop physical education habits. School physical education and health education work together to make sports a way of life.

4.5 Comparisons of Laws and Regulations of Physical Education Venue and Facilities

Jian (1995) makes a comparative analysis of the provisions on school physical education venues and facilities in Japan’s “Measures for Revitalizing Physical Education in the 21st Century”, “City Park Law” and other policies and regulations in China, such as “Outline of Interim Measures for Developing Physical Education Movement”, “Outline of National Physical Education Development Plan (Draft)” and “Regulations on School Physical

Education Work”.

5. Commentary

Academic circles in China and Japan have made some achievements in the study of school physical education laws and regulations, pointing out the general direction for the academic circles to carry out the study of school physical education laws and regulations, but there are also some weak links.

Firstly, from the perspective of studying school physical education laws and regulations. Chinese scholars mostly study it from the perspectives of school physical education, physical education law, physical education sociology, legislation, comparative law, policy and other perspectives, and explore the process of building school physical education laws and regulations and the study of the laws and regulations system. From the perspective of school physical education, they analyze the relevant provisions of school physical education venues, students' physical education rights, school physical education safety accidents and so on , scholars starting from the perspective of physical education law have focused on the analysis of the legislation, law enforcement, justice, law-abiding and legal supervision of school physical education laws and regulations. Japanese scholars have done more research on school physical education laws and regulations from the perspective of sociology, culture and law, and have discussed in depth the issues of students' physical education rights and specific compensation for school physical education injury accidents, so it is more valuable and operational.

Secondly, on the research of content of school physical education laws and regulations. Chinese scholars mostly study the history of school physical education laws and regulations, school physical education venues, physical education safety accidents and other related laws and regulations. However, in Japan, there are many studies on the revision methods of school physical education laws and regulations, and the specific compensation for school physical education injury accidents.

Thirdly, on the methods of studying the laws and regulations of school physical education. Scholars in China and Japan both focus on qualitative methods to study the laws and regulations of school physical education, but there are few quantitative studies. Some Chinese scholars have used some management standards to study the implementation capacity of school physical education laws and regulations, trying to establish an evaluation index to measure the implementation capacity of school physical education laws and regulations.

Fourthly, about the comparative study between China and Japan. There are few Chinese scholars who study the special topic “Comparing the laws and regulations of school physical education”. Chinese scholars either compare school physical education with those related to a single law and regulation, or compare the laws and regulations related to a certain problem of school sports, only stay in the descriptive comparison of the quantity and content of the laws and regulations.

There are some problems in Chinese school physical education laws and regulations, such as low level of legislation, obstruction of implementation, lack of supervision mechanism, imperfect content and invalidation. Around these problems, there is an urgent need for academic circles to strengthen relevant research.

Firstly, we should continue to study the basic theory of school physical education laws and regulations. The laws and regulations of school physical education involve the disciplines of school physical education, physical education law, physical education sociology, ethics, legislation, policy and so on. The basic theories of school physical education laws and regulations should be comprehensively applied and deeply studied.

Secondly, we should continue to strengthen the innovation of the research structure, content and methods. Its structure should change the original research structure, more attention should be paid to the relevant problems research of school physical education laws and regulations. Its content should be aimed at weak links, broaden the research content, from legislation to justice, to law enforcement and legal supervision and amendment. The method should be cross-integrated, which is determined by the interdisciplinary laws and regulations of school physical education.

Third, we should continue to strengthen comparative studies of neighboring countries or developed countries. Developed countries have accumulated plans and ideas to solve some school physical education problems in the process of building school physical education laws and regulations. The purpose of comparative study is to take others as example, reflect on oneself, extract its essence, remove its dregs and draw lessons from its useful experience.

Perfect school physical education laws and regulations system is a necessary condition to ensure the healthy and sustainable development of school physical education. Today's “governing education by law” and “governing physical education by law”, school physical education circles should adopt a more active attitude to effectively promote the research and construction of school physical education laws and regulations.

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