

Government Guarantee System for Rural Left-behind Children's Right to Receive Education: Status Quo, Deficiencies and Suggestions

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Abstract. The growing economic and social development has led to an increasing number of rural Left-behind children, causing a lot of problems, and the issue of education is the most prominent one that gains more and more attention from the whole society. The rural revitalization strategy cannot progress well without revitalizing education. Guaranteeing the right to receive education for children left behind is a prerequisite and basis for optimizing the education in rural areas. In recent years central government has issued a number of directives and ordinances that play a positive role in effectively protecting the educational rights and interests of rural left behind children. This paper aims to analyze the current situation and content of the government guarantee system that ensures the right to education of rural left behind children from a macro perspective, evaluate on its shortcomings and put forward relevant suggestions.

Keywords: Social Policy; Left-behind Children; Educational Guarantee.

1. Introduction

With the accelerated urbanization, the traditional household registration system is gradually breaking down the restrictions on the status of urban and rural residents, and more and more rural residents are flocking to cities to become urban workers [1]. However, due to the long-term urban-rural dual system and the lag effect of policy implementation, these migrant workers are unable to bring their children with them, and the number of Left-behind children who are separated from their parents and forced to stay in the countryside is increasing, so the education problems, accordingly, is becoming increasingly prominent. For left behind children, the right to receive education is the issue on the top priority. To what extent the protecting work go on directly affects the all-round development of left behind children, and plays an irreplaceable role in their physical and mental health. Rural left behind children is the main force of China's rural development. They are the special vulnerable groups left in the period of social transformation. Therefore, social policy should attach great importance to the problem of left behind children.

To protect rural left behind children's rights and interests, the right to receive education must be the prime task to achieve. In today's society, the protection of the right to education has distinct legal significance, which is not only conducive to the protection of the human rights of left behind children, but also conducive to stabilizing rural order and realizing social equity. China should provide all children with an equal environment for receiving education based on the idea of education fairness. Rawls' principles of equality and difference should be implemented. The government should also improve the disadvantaged environment of left behind children, escort left behind children to receive education and realize fair education. Everyone should respect the right to education, and everyone should do their best to make the protection work better, which is of great significance in realizing the valuable goal of fair education and creating a fair social atmosphere.

2. Literature Review

In the 19th century, the United States also experienced a large number of population migration [2]. However, difference from China, the social security system at that time in the United States was relatively mature. Whether their children migrated or stayed in their hometown, there was no major

change in their education situation, and the right to education of left behind children could be guaranteed [3]. Based on this, exploring the right to education of rural "left behind children" should start from the actual situation of our country, and the research should also aim at the special circumstances that only appear in China. Relevant foreign laws and regulations can only be used for reference instead of an important basis.

Nevertheless, it is needed be aware that although the developed capitalist countries have not formed mature laws and regulations for the group of "left behind children", some scholars have deeply studied their right to education, including its basic principles, fundamental attributes, main contents, etc. At the same time, it also takes into account the protection of children's right to education when their custody changes. Apparently, western countries attach great importance to the right to education and opportunities of left behind children and even ordinary citizens. Moreover, they even link the right to education with social equity and social development as an indispensable legal right of every citizen.

China officially defined the concept of rural "Left-behind children" for the first time in 2004. So far, many scholars have made a lot of exploration on the current situation of rural "left behind children" education. However, there is no relatively unified opinion, and the contradictions are mainly reflected in the following aspects: (1) there are disputes over the legal nature and content of the right to education of rural "left behind children". Some researchers define that the protection of the right to education of rural "left behind children" includes the significance of administrative law, civil law and constitutional law, while others believe that it only includes the significance of constitutional law, The representative works of this view include the connotation of constitutional protection of the right to education and the analysis of citizens' constitutional obligation to receive education. At present, there is no theoretical research on the special phenomenon of the right to education of "left behind children" abroad. (2) at present, the research on the current situation of the right to education of "left behind children" in rural areas focuses on the educational environment, educational conditions, etc. [4], However, there is a lack of research on the legal protection of the right to education of rural "left behind children", that is, up to now, the research on the protection mechanism of the right to education of rural "left behind children" in China lacks of exploration from the perspective of the government guarantee system.

3. The Necessity of Safeguarding the Right to Education

The famous German scholar of administrative law, Forsthoff, first put forward the payment theory in 1938 [5]. He believes that the state has the obligation to take care of people living in difficulties. It should provide material or public services for this group and strive to improve their living standards. "Payment administration" refers to the "survival care" of administrative organs for people living in difficulties, that is, to provide citizens who must participate in social activities with the most basic living materials or services to scrape a living. The administrative function of modern society has begun to change from control administration to payment administration. The administrative purpose of the government is not limited to the maintenance of social order and the management of people. More often, it has been transformed into providing better services to the people. In order to promote the promotion of left behind children's right to education, from the perspective of administrative law, it is needed to envisage the orientation of education, students' rights, the role of schools and the protection of students' rights to be educated. In particular, the protection of students' rights to education and their human rights is an important part of administrative payment. It is the most basic responsibility of government departments to ensure that every child in the stage of compulsory education can receive education in time and will not lose the right to education because of family poverty, feudal thought and other reasons, especially for the rural "Left-behind children" who are regarded as vulnerable groups in the society. Some children cannot acquire good educational resources by themselves or their families, which requires the policy support and behavior assistance

of the state and society. This is not only the responsibility of the government as a functional department at the national level, but also the significance of Payment theory.

Regulating and standardize social relations is one of the important purposes of law. As law enforcement departments, administrative departments at all levels shall, in accordance with the requirements of the law, implement administrative management over the public and society to ensure the fair and orderly development of society. In China's constitution, the right to education is a citizen's right specified in the constitution. From this legal provision, it can be seen that the expenditure on basic education, especially compulsory education, should be paid by the central government and governments at all levels. Although, for compulsory education, the government's financial expenditure cannot ensure that children receive very high-quality education, China has formulated standards in the distribution of compulsory education resources and education level, which is a quite basic standard that local governments at all levels should follow and support the development of education. Implementing this standard is their responsibility. It is also an embodiment of the fair treatment of children's right to education. It is the reflection of the concept of educational equity in national governance when society develops to a certain stage.

The explicit requirements of China's constitution on children's right to education provide a legal basis for governments at all levels to ensure children's right to education in the stage of compulsory education, especially for Left-behind children in rural areas, but the legal provisions only stipulate the rights that children can enjoy, and it cannot ensure children's real right to education. It still needs administrative law enforcement, policy guarantee and implementation to really ensure rural left behind children are entitled to the right to education, which places a high requirement on governments. According to the current survey, the most critical reason for rural left behind children not receiving an all-round education is that their parents leave home to work in city, resulting in inadequate education from parents and supervision. Even worse, family environment cannot play a fundamental role in ensuring children's learning. The government needs to intervene in the process of protecting children's right to education and provide a more favorable educational environment for children through the implementation of policies, financial investment and the integration and interaction of social, school and family relations. Only in this way can the provisions on citizens' right to education in the Constitution be truly transformed into the protection of practical rights.

4. Major Measures Taken by the Governments for Protecting the Right to Education

From the perspective of the role of the government in ensuring the right to education of rural left behind children, the security system can be mainly divided in the several parts, namely, legislative security (legal security), policy security and educational work security. Legislative security mainly refers to improving the laws and regulations on compulsory education and the relevant provisions on the right to education of left behind children through legislative means to ensure that left behind children can be protected at the legal level. To obtain legal support for education, and to appeal on the basis of corresponding laws and regulations after the violation of the right to education; Policy guarantee refers to various policy documents and regulations, such as fiscal policy, enrollment policy, education supervision policy, etc., issued by the government to guide left behind children in rural areas to enjoy better schooling [6]. Educational work security mainly refers to the government's joint efforts with social, school and other institutions, departments and groups to optimize and ensure the implementation of education for left behind children, such as establishing corresponding work system, guiding schools to establish corresponding management system, encouraging society to provide corresponding assistance, etc.

4.1 Legislative Measures

China makes much account of the protection of citizens' right to education in legislation. Both the Constitution Law and other basic laws clearly stipulate the issue of citizens' right to education.

However, there is always a lag between the legislative process and the process of social development. With the continuous acceleration of social development, the law may not adapt to the needs of development. For example, at present, the problem of rural left behind children is a new social problem under the background of the accelerated development of labor mobility, and China has not issued special laws and regulations on this problem. This is the lack of protection of citizens' right to education in this link. The existing relevant laws can be only found in the constitution, the law on the protection of minors, the education law and the compulsory education law.

Article 46 of the constitution strictly defines citizens' right to education. In particular, it defines the special status of citizens' right to education in the constitution, and points out that the state undertakes the subject of obligations in ensuring citizens' right to education; Citizens are the subject of the right to education. According to this provision, rural left behind children are also an integral part of our citizens and a special part, so their right to education should be protected by the Constitution and the government.

4.2 Administrative Guarantee Measures

4.2.1 Relevant Policies to Improve the Educational Conditions of Rural Left behind Children

The law is a rigid provision and strict bottom line to protect the right to education of left behind children, but to realize the effective protection of children's right to education, effective policy arrangements are required. From the past practice of protecting the right to education in China, the policy means are the most effective and basic means. Governments at all levels have also successively issued educational measures to protect the right to education of rural left behind children. For example, the State Council issued the decision on further strengthening rural education, which clearly pointed out that it is necessary to accelerate the "two basic points", continuously improve the quality and level of rural compulsory education. At the same time, it also made it clear that the county-based compulsory education model in rural areas should be promoted, the central and local financial investment in rural compulsory education be strengthened. Moreover, it is needed to ensure the wages and welfare benefits of teachers in rural nine-year compulsory schools, to repair and build educational infrastructure that meets the educational needs of rural areas, to step up the investigation of potential safety hazards for hardware facilities such as school buildings that have been built if necessary, to step up the construction, to modernize the teaching facilities that need to be transformed, and to ensure that the educational infrastructure meets the needs of rural education; Apart from that, we should also establish supervision and guarantee institutions for the implementation of rural compulsory education to guarantee that the financial investment in education of the state and governments at all levels can be implemented; It is of great importance to continue to establish and improve the system of assistance and assistance for students from poor rural families to ensure that school-age children in rural areas do not drop out of school and have an all-round and healthy physical and mental development.

4.2.2 Policies to Guide Left behind Children to Study in Cities

Considering problems including the actual needs of those rural parents to work in cities and the current situation of insufficient educational conditions in rural areas, Chinese government has also issued a series of opinions and policy measures on enabling migrant workers' children to get educated in cities. In this way, these children are moved to cities, so as to ensure the dual realization of migrant workers' parents' guardianship rights and migrant workers' children's right to education.

For example, in 2003, the State Council forwarded the opinions on further improving the compulsory education of migrant workers' children in the process of employment, which clearly pointed out that the enrollment of migrant workers' children should adhere to the principle of "two priorities", that is, full-time public schools and local government management. At the same time, the State Council has also issued a series of supplementary documents one after another, canceling the "borrowing fee" paid by migrant workers' children to study in cities.

4.3 Educational Measures

4.3.1 Establish an Education System for Rural "Left Behind Children"

Under the initiative of the government, some units have established a personal file management system for left behind children, hoping to find out the basic situation of left behind children in this way, so as to take targeted management and education measures. For example, the registration file system and joint management agreement system established in Hunan and other provinces. Of course, in terms of China's current national conditions, it is not enough to rely solely on the strength of the government. Caring people from all walks of life and young volunteers are important forces in the education of left behind children.

4.3.2 Establish a Center to Support "Left Behind Children"

At present, due to the lack of family care, these children are prone to psychological problems and misconduct in daily life. Resulting from the lack of enlightenment and education from professionals, people often mistakenly think that they are "bad children". The establishment of a support center for left behind children can concentrate children in need of help, let professional children's psychological counselors and life teachers enlighten and guide them, and help them get out of the shadow of "bad children".

4.3.3 Strengthen the Education of Guardians of "Left Behind Children"

The parents of left behind children have a low level of education. Many people are legally blind and know nothing about how to correctly educate their children. To do a good job for left behind children, we should start with their guardians, let them clarify their responsibilities and obligations and teach them with the support of guardians, the education of left behind children can get twice the result with half the effort.

4.3.4 Vigorously Promote Boarding Schools

Boarding schools are common in cities, but with the acceleration of social process, many rural areas also have the conditions to establish boarding schools. If left behind children can study and live in schools and receive unified management and education, it will greatly reduce their chances of contacting the adverse effects of society and indirectly improve their living environment.

5. Problems and Shortcoming in the Government Guarantee System

5.1 The Legal System of Left behind Children's Right to Education is Incomplete

From the legislative situation of the right to education, the interpretation and provisions of China's relevant laws on the right to education are relatively abstract, and up to now, there is no special law on the right to education of left behind children, and some relevant provisions are scattered in various departmental rules and regulations.

In the policy and implementation opinions, there is a lack of systematization and synergy of legislation. The provisions on citizens' right to education in the constitution are highly general and principled. Because of this, the definition and expression of this issue in the constitution are not detailed and operable, and there is no relevant expression on the right to education of left behind children. However, in the protection of left behind children's right to education, administrative law enforcement departments and educational institutions at all levels need operable and detailed measures and methods, which is still flawed. From the perspective of legislation, most of the laws related to the right to education in China are general laws and regulations, and there is no one-way legal arrangement. From the perspective of provisions and rules, most of them are prohibitive and restrictive provisions, and there is a lack of corresponding guidance on how to protect rights and how to carry out educational assistance; Although the compulsory education law has targeted provisions on minors' right to education, it is relatively broad. It only expresses the equal right to education and

only stipulates that local governments at all levels have the obligation to help protect minors' right to education. However, there are deficiencies in how to help and how to assess the effect of assistance.

5.2 Barriers to Registered Residence System are Still Influenceable

The registered residence system in China is formed on the basis of the registered residence management concept of urban-rural dual system. Under this model, urban and rural residents have unequal access to resources in public services such as medical care, social security, employment and education [7].

This urban-rural dual structure is the basis of China's political system and national governance system, so this situation is difficult to change in the short term. With the deepening of the reform, registered residence system reform has been implemented throughout the country. Some places have begun to try to break the restrictions of registered residence system in urban and rural areas, and the purpose is to achieve equalization of public services. In this way, urban education resources and rural education resources may reach a balanced distribution after a period of time. However, in the implementation of the registered residence system, the progress of household registration system reform is different. Registered residence system reform has been launched in many places, but the allocation of public service resources is dependent on the reform. However, in favor of cities, the bottleneck of educational resources in rural areas still exists, and the right to education of rural children is still not as full as that of urban children. Migrant workers migrant workers migrant workers are not registered with the city because of the restrictions of registered residence system. Some places have children's schools, but they are limited in size of schools.

5.3 Insufficient Investment in Rural Education

From the perspective of education age, rural left behind children belong to the stage of compulsory education, so the education funds of rural left behind children mainly rely on national and local financial investment. In recent years, China's investment in basic education has increased year by year, which plays a great role in supporting the development of rural education and optimizing the distribution of educational resources. However, China has a huge population base, especially a large rural population. Rural children, especially left behind children, have shown a rapid growth trend in recent years. In contrast, it is difficult for rural education investment to keep up with the development needs. Compared with developed countries, China's education investment still has more room for growth. Especially in terms of local financial investment, due to the need to invest a lot of funds in economic development and urban construction, the funds used by local finance in the field of education are not sufficient, the proportion of transfer payment is large, and the local finance is stretched. Under the hierarchical management system, local governments bear a large amount of education funds and responsibilities, but there are few financial reserves. In 2015, China's average local financial investment in education accounted for only 4% of GDP, just reaching the basic line of the world equilibrium standard. Compared with China's population size, such investment ratio obviously cannot meet the huge demand for rural education. Due to the insufficient investment in rural education funds, the expenditure on rural school infrastructure, teachers and the protection of the right to education of left behind children often cannot make ends meet, which is also the direct reason why it is difficult to effectively protect the right to education of left behind children in rural areas.

5.4 Deviations in the Implementation of Education Policies

As for the protection of left behind children's right to education, China's central and local governments have taken it seriously from a policy perspective, and CPC and governments at all levels recognize that if the problem of left behind children's right to education is not solved, it will seriously affect China's talent training and even social stability. Even if governments at all levels are trying to introduce and improve the measures to protect the right to education, the introduction of policies and measures still depends on the effective implementation. The reality is that the implementation of the

policy is not as effective as expected. For example, the financial strength and educational foundation of villages and towns in rural areas are different, and the people's living conditions and rural infrastructure construction are also different. Some remote villages are still unable to effectively implement policies on the right to education of left behind children. For example, there are only a few rural teachers, let alone the qualified teachers who are talented enough to reverse remote places condition For Students living in school, transportation Security is also difficult to be effectively guaranteed. In some urban areas, due to the unbalanced distribution of educational resources, the local government's investment in the education of urban children and migrant workers' children. There are serious differences in education. Some schools for migrant workers' children still have many deficiencies in school running quality and infrastructure construction. Some places even collect borrowing fees for migrant workers' children in violation of the provisions of the central and local governments, increasing the educational burden of migrant workers' families and affecting rural left behind children to study in cities.

6. Proposals on Perfecting the Government Guarantee System

6.1 Strengthen the Legislation

In order to ensure that rural left behind children receive education fairly, central government departments should strengthen and improve education legislation. When the right of vulnerable groups to education is threatened, the country should implement corresponding legal policies. The government is the main force to maintain these children's equal access to education. In order to carry out their work smoothly, it is of utmost importance to strengthen the implementation of relevant laws, so as to ensure the legitimacy of the activities. On the one hand, China should formulate the legal provisions on the right to education of rural left behind children from the actual situation. This provision should be the only beneficiary characterized by rural left behind children, clarify the education that rural left behind children should receive in the stage of compulsory education, its standards and corresponding targeted measures, and establish a perfect relief system. On the other hand, the government and its relevant departments should strengthen educational administrative legislation and formulate corresponding rules and regulations according to the survival status of rural left behind children, so as to protect their rights and interests. Since China has not yet established a legal system to protect the right to education of social vulnerable groups, so it is necessary to implement relevant education legislation on the basis of backward vulnerable groups. In rural areas, due to the extremely unbalanced economic and cultural development, there are differences in the scale of education departments at all levels, the institutions implementing education and protection measures of local governments and education administrative departments. Regulations should be made according to the different conditions of different regions and different social groups and local conditions, so as to adjust measures to local conditions and vary from person to person.

6.2 Optimize Law Enforcement in Cases of Violations of the Right to Education of Left Behind Children

The law is the most basic means to count on for protecting the right to education of rural left behind children, but the legal provisions are fixed. If they are not effectively implemented, it is still difficult to ensure the right of children to education. While carrying out the legislative work on the protection of education rights, policy should strengthen the administration according to law, and strictly investigate, deal with and supervise the events that do not guarantee children's access to compulsory education in accordance with the provisions. First, government should strictly implement the relief systems such as educational punishment, appeal and arbitration. When the right to education of rural left behind children cannot be fully guaranteed, government departments and education management departments shall, on the basis of law, punish each such incident, ensure that rural left behind children and families can obtain effective channels of appeal and arbitration, and strengthen the relief and compensation system for out of school, dropping out of school and educational discrimination.

Besides, governments should guide rural compulsory education institutions to take more practical measures to protect the right to education of rural left behind children. Last but not the least, the competent department of education should give full play to its functions.

6.3 Improve the Government's Guidance on the Education Coordination System for Left behind Children among Schools, Families and Associations

In the traditional mode, the bridge between the left behind children's families and schools is the education staff of the village committee or the township party committee, but after all, the personnel of these institutions are limited. Therefore, under the guidance of the government education department, social groups should be involved in the link between schools and left behind children's families, and become an important link. For example, the left behind children care organization can regularly visit the left behind children's families, and appoint a commissioner to collect the educational suggestions put forward by the school and feed them back to the parents, etc. The establishment of this organization can take the form of non-profit organizations, including village committees, rural natural village communities, etc. to support the operation by using the income of collective assets, or ensure the operation through the assistance of township enterprises and village enterprises. The superior government can provide educational experts and some special financial transfer payment funds.

6.4 Improve the Government's Education and Teaching Assessment System for Left behind Children in Schools

From the current government investment in rural school education, although it is slightly insufficient, it has shown a trend of increase year by year. In some areas, there has been both an increase and decrease. An important reason for the misuse of education funds is the inadequate evaluation and supervision of the use of funds in rural schools by grassroots governments. To address this problem, local, municipal and autonomous regional education authorities should directly assess and supervise rural primary and junior schools, and municipal and county discipline inspection committees should actively intervene to seriously deal with the misuse and misappropriation of special education funds for Left-behind children. At the same time, since rural schools are also public institutions, teachers and principals of rural schools can enter the civil service system through administrative channels, so some teachers and school managers pay attention to it. When it comes to promotion, there is a phenomenon that some left behind children are forced to repeat grades because of some principals or teachers' strong willingness in getting a high enrollment rate. Even if there is no such problem, school managers and teachers will not be able to focus on protecting the right to education of left behind children because of this deviation. Therefore, there is an urgent need to change the traditional assessment method that used to take the enrollment rate as the assessment index, take the enrollment number as the assessment standard rather than the enrollment rate, and take the protection of left behind children's right to education as an important indicator for the assessment of schools and even township party Committee and government teams, forcing rural schools and grassroots party committees and governments to pay more attention to the right to education of left behind children. During the assessment, it is also recommended to assess the outstanding links according to the seven aspects listed in the interview part of this study, and the assessment indicators and weights should be calculated reasonably. The assessment results are used as an important basis for the evaluation and promotion of the team. In addition, government departments should also provide more opportunities and platforms for the cultivation of teachers in rural schools. For example, the cultivation of psychological counseling ability requires the education department to give rural teachers certain learning opportunities and promotion space by inviting experts to give lectures or sending them abroad to study, so as to improve the level of education and teaching ability.

References

- [1] Hu H, Wang W, Feng D, Yang H. Relationships between migration and the fiscal sustainability of the pension system in China. PLoS ONE. 2021, pp.1-16.
- [2] Bryant J. Children of international migrants in Indonesia, Thailand and the Philippines: A review of evidence and policies. Innocent Working Paper, 2005. pp.47-80.
- [3] Adhi kari, Jampaklay, The Impact of Parental Migration on the Mental Health of Children Left Behind. Journal of Immigrant and MINORITY Health. 2014. pp.781-789.
- [4] Jiang H, Hu H, Zhu X, Jiang H. Effects of school-based and community-based protection services on victimization incidence among Left-behind children in China. Children and Youth Services Review. 2019. pp. 239-245.
- [5] Jacobi JV. Payment Theory and the Last Mile Problem. The Journal of law, medicine & ethics. 2020. pp. 474 -479.
- [6] Liu M, Villa KM. Solution or isolation: Is boarding school a good solution for Left-behind children in rural China? China Economic Review. 2020.61.
- [7] Chen Y. Analysis of Occupation Intergenerational Mobility Mechanism: Based on the Perspective of Floating Population and Registered Residence System. IOP Conference Series: Earth and Environmental Science. 2021: 042080/1.