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СРАВНИТЕЛЬНЫЙ АНАЛИЗ РЕГУЛИРОВАНИЯ РОДИТЕЛЬСКОЙ ОТВЕТСТВЕННОСТИ В РОССИИ И КИТАЕ

Аннотация : В данной статье проводится сравнительный анализ систем родительской ответственности в Китае и России, исследуются сходства и различия между двумя странами с точки зрения правовой базы, реализации системы и социальных последствий. Китайская система родительской ответственности в основном основана на Гражданском кодексе, который подчеркивает обязанности родителей по воспитанию, образованию и опеке детей, а также обеспечивает права и интересы несовершеннолетних детей с помощью правовых средств. Россия, напротив, уточняет основные обязанности родителей в Семейном кодексе, делая акцент на вмешательстве государства и

социальной поддержке для обеспечения базовых потребностей детей в жизни и развитии. Между системами двух стран существуют значительные различия с точки зрения конкретной реализации и эффективности, что отражает различия в их соответствующих социальных, культурных и экономических условиях. Цель данной статьи - дать рекомендации по совершенствованию системы родительской ответственности путем сравнительного анализа.

Ключевые слова: Родительская Ответственность, Отношения Между Родителями и Детьми, Китайское Право, Российское Право, Права и Интересы Детей

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COMPARATIVE ANALYSIS OF THE PARENTAL RESPONSIBILITY

REGULATION IN RUSSIA AND CHINA

Abstract: This paper provides a comparative analysis of the parental

responsibility systems in China and Russia, exploring the similarities and differences between the two countries in terms of the legal framework, implementation of the system and social effects. China's parental responsibility system is mainly based on the Civil Code, which emphasizes parents' obligations in child rearing, education and guardianship, and ensures the rights and interests of minor children through legal means. Russia, on the other hand, clarifies the basic responsibilities of parents through its Family Code, emphasizing State intervention and social support to ensure that children's basic needs for life and development are met. There are significant differences between the two countries' systems in terms of concrete implementation and effectiveness, reflecting the differences in their respective social, cultural and economic backgrounds. This paper aims to provide reference for improving the parental responsibility system through comparative analysis.

Keywords: Parental Responsibility, Parent-Child Relationship, Chinese Law, Russian Law, Children's Rights And Interests

Introduction

With the development of modern society, the core concept of the law of parent-

child relationship has gradually shifted from “parental rights” to “parental responsibilities”. Parental responsibility involves not only the upbringing and education of children, but also the obligation to take care of their physical and mental health and the management of their property. This article analyzes the parental responsibility system in China and Russia, and discusses the similarities and differences between the two countries in terms of legal framework, system implementation and social effects. China's parental responsibility system is mainly based on the Civil Code, which emphasizes the obligations of parents in the upbringing, education and guardianship of children, and ensures the rights and interests of minor children through legal means. Russia, on the other hand, clarifies the basic responsibilities of parents through its Family Code, emphasizing State intervention and social support to ensure that children's basic needs for life and development are met. There are significant differences between the two countries' systems in terms of concrete implementation and effectiveness, reflecting the differences in their respective social, cultural and economic backgrounds.

Modern Transition from Parental Rights to Parental Responsibilities and Parent-Child Relationships

From the perspective of modern family legislation models, the development concept of parent-child relationship law is gradually transitioning from parental rights to parental responsibilities. Parental responsibility mainly refers to the power and responsibility relationship between parents or other supervisors and children, that is, the natural obligation to take care of and ensure the physical and mental health of children, as well as to properly manage their legal property on their behalf. ¹Family education is an indispensable part of children's integration into society and the starting point for creating a good atmosphere for their growth.

In modern society, when it comes to exercising parental rights, mothers have begun to enjoy equal parental rights as fathers. The history of women being highly dependent on their husbands in the family and not having independent legal status has passed.² Promoting children's rights is the responsibility of parents, not the obligation

¹<https://www.empoweringparents.com/article/parenting-responsibilities-10-things-you-are-and-arent-responsible-for-as-a-parent/>

² American Psychological Association. (2009, March 31). Parents and caregivers are essential to children's healthy development. <https://www.apa.org/topics/families/parents-caregivers-kids-healthy-development>

of the state. Whether parents can shoulder their responsibilities and ensure the future development of children is crucial. Although the traditional family model centered around one father and one mother remains the main component of international families, social changes have also brought about significant changes in the field of international families. New family models such as families composed of same-sex partners, families formed using artificial reproductive technology, and families formed through cross-border adoption are gradually emerging. The lagging nature of the law makes it difficult for international conventions and domestic laws of various countries to regulate these social changes in a timely manner. However, rights holders are waiting for legal remedies, and some courts can only handle such cases with existing legislation. The change in the international family model also means that the traditional definition of parental responsibility will gradually disintegrate, and the meaning of the parent-child relationship may be reinterpreted, meaning that parents are no longer the sole responsible parties for safeguarding children's rights. Parental authority is no longer solely owned by parents who are bound by blood ties, [1] and

any third party related to the child's life may be eligible to apply for responsibility.

Chinese parental responsibility system

The Chinese parental responsibility system is based on the law and clarifies the responsibilities and obligations of parents in education, upbringing, and guardianship to ensure the growth and development of underage children. According to Article 1094 of the Civil Code, parents have the right of guardianship and the obligation to raise their children, and must provide living conditions, educational opportunities, and spiritual care for their children. According to the law, parents should bear the necessary living expenses of their children, including clothing, food, housing, and transportation, which are usually reasonably arranged under the family's economic conditions.

In terms of education, the law requires parents to ensure that their children receive compulsory education, unless there are special circumstances such as transferring schools or dropping out. The Family Education Law has provided important supplements to parents' educational responsibilities, emphasizing that parents should provide appropriate educational guidance based on their children's physical and

mental development characteristics, and enhance the coordination between family education and school education. [2] It should be mentioned that if parents fail to fulfill their educational and child rearing obligations, relevant institutions may apply to the court in accordance with the law to deprive them of their guardianship and protect the legitimate rights and interests of underage children.

According to Chinese law, when parents divorce or separate, they should prioritize the interests of their children, maintain their stable life and mental health, and usually have the court arrange custody and visitation rights based on the principle of "benefiting the children". [3] The proportion of child support expenses is also reasonably allocated by the court based on the parents' financial situation to ensure the basic living needs of the children. If children suffer damages due to their parents' negligence or improper behavior, the law grants them the right to claim compensation from their parents.

It is particularly emphasized that the Chinese government has vigorously promoted the implementation of family education and child welfare policies in recent

years, encouraged social forces to participate in children's growth and protection, enhanced parents' awareness of responsibility, and increased punishment for behaviors that violate parental responsibilities, in order to improve the quality of family education. Judicial practice has also shown that the social recognition of parental responsibility continues to strengthen, promoting the organic combination of social responsibility and family responsibility.

The parental responsibility system in Russia

In Russia, the basic legal framework of the parental responsibility system is mainly reflected in the Family Law and Civil Law. However, technically speaking, Russian legal theory and related legislation do not know the concept of guardianship, whether it is actual guardianship or legal guardianship, or joint guardianship or individual guardianship, and there is no clear concept. One reason may be that Russian legal principles regard the right to raise one's own children as an inalienable individual right of every parent. [4] Once a blood relationship is established, the legal relationship between parents and children naturally arises, so there is no need for a

macro concept.

According to Russian law, a person must have the rights and responsibilities of parents and formally establish their parental status. This means that in order for a child's mother and father to be legally recognized as legal parents, they must be registered as parents in the birth registration book and the child's birth certificate.

When the biological father refuses to voluntarily confirm the father son relationship, the law allows judicial confirmation of the father son relationship in court proceedings. However, once the relationship is confirmed, he not only has the obligation to raise the child, but also has a complete set of parental rights.[5]

Therefore, this "all or nothing" approach in Russian family law has been criticized because it will bring a lot of trouble to the mother and child. In fact, a fairer approach is to limit the father's intervention in the child's life to In terms of his obligation to pay child support, If he is willing to acknowledge custody, he can also obtain the rights that his biological father possesses as a result

The parental responsibility system in Russia also clarifies the rights and

obligations of parents, following the principle of "priority protection", [6] which means that in any legal matters involving underage children, the interests of the children should be given priority consideration. Especially in the case of divorce, the court will allocate custody based on the principle of "best interests" to ensure a stable living environment for the children. Normally, mothers are more likely to have primary custody, but if fathers can prove their ability and willingness, they may also have joint custody or sole custody.

Russian law has corresponding sanctions for parents who fail to fulfill their parenting obligations. The court may order the payment of child support, and the standard for child support is evaluated based on the parents' financial situation and the actual needs of the children. Usually, the amount of child support can account for 25% to 50% of the parents' monthly income. If payment is not made on time, the law allows for measures such as withholding wages or property to ensure payment. In addition, parents who have lost custody still have the right to visit their children, with specific arrangements to be decided by the court or resolved through mediation.

Russia also has many social security measures aimed at protecting and supporting children and their families. The government provides childcare allowances, education subsidies, and medical security to alleviate the economic burden on families. In addition, for families facing special difficulties, relevant institutions can provide psychological counseling, legal aid, and other services to help these families better cope with parenting challenges.

In recent years, Russia has gradually strengthened mediation and non litigation mechanisms to encourage negotiation and cooperation between parents in child rearing, reducing family conflicts caused by divorce. The legally mandated family mediation services are an important component of this effort, facilitated by professional mediators to reach a consensus between both parties, which is beneficial for protecting the legitimate rights and interests of children.[7] The Russian parental responsibility system is based on laws and social security, aiming to build harmonious parent-child relationships and ensure that children's basic living and psychological development needs are met.

Comparison of institutional content and legal basis

In the Russian legal system, the parental responsibility system is mainly reflected in the Family Code, which emphasizes the basic responsibility of parents to safeguard their children's basic rights such as life, education, and health. Specific provisions, such as Article 48, clearly stipulate that parents shall bear the primary responsibility for the living conditions and education rights of their underage children, and stipulate that any infringement of these rights may face legal consequences. The law also stipulates that if parents fail to fulfill their responsibilities, relevant institutions may intervene and take necessary measures, such as limiting or depriving parents of their rights. In addition, Russian law has a social welfare system that supports parents in fulfilling their responsibilities, such as childcare allowances and social assistance, which enhances families' sense of responsibility towards their children.

In terms of parental responsibility system, China mainly relies on relevant provisions of the Civil Code, especially Articles 1089 and 1090, to clarify the responsibilities of parents in raising, educating, and protecting their children.[8]

According to the law, parents are not allowed to abandon or abuse their children. If violated, they may face civil and criminal liability. In addition, Chinese law also covers social security measures for parental responsibility, providing policies such as eugenics and child rearing, and orphan assistance systems, encouraging parents to play an active role in their children's growth process. It is worth noting that the Law on the Protection of Minors further provides protection for the rights and interests of minors, by establishing legal obligations of parental responsibility and guardianship, ensuring that minors receive good protection and support in their families and society.

Comparison of System Implementation and Effectiveness

When comparing the implementation and effectiveness of parental responsibility systems in Russia and China, attention should be paid to the differences between the legal framework and actual implementation. The parental responsibility system in Russia is mainly regulated by the Family Law, emphasizing the protection of children's interests and the legal responsibility of parents. According to statistics from 2019, about 18% of families in Russia were held legally responsible for their parents'

failure to fulfill their duties. China, on the other hand, has clarified the responsibilities of parents for the guardianship, upbringing, and education of their underage children in accordance with relevant provisions of the Civil Code. According to data from 2020, the proportion of disputes over the right to care in court cases nationwide has increased to 5.3%.[9]

In terms of institutional implementation, Russia has used detention measures as a deterrent and social service intervention to successfully encourage over 70% of families to demonstrate a proactive attitude towards fulfilling their responsibilities after receiving intervention. China focuses on publicizing bad records and imposing economic penalties. For example, parents who fail to fulfill their parenting obligations may be included in the list of dishonest persons subject to enforcement, thereby restricting their high consumption behavior. Currently, effective sanctions have been imposed on over 150000 dishonest persons subject to enforcement.

In terms of legal effect, in cases of parental rights deprivation in Russia, the average trial period is 6 months, and the deprivation rate is about 9%. In contrast, the

trial time in similar cases in China is usually shorter, averaging within 3 months, and the deprivation rate can reach 5% to 7%. In addition, the evaluation mechanism for problematic families in the Russian education and social service system is relatively mature and closely integrated with the national social welfare system, while China is still in the exploratory stage, especially in terms of the ability to evaluate and monitor family situations, which needs to be improved.

From the implementation effect of the parental responsibility system, Russia's legislative background emphasizes the combination of legal compulsion and social intervention, which significantly improves the compliance of parental responsibility fulfillment.[10] Although the Chinese system has achieved significant results in promoting parental responsibility, there are still shortcomings in the implementation and monitoring system construction. Based on the comparison between the two countries, it can be seen that the effectiveness of the system not only depends on the provisions of legal provisions, but is also closely related to the improvement and enforcement of implementation rules.

Conclusion

A comparative analysis of the parental responsibility system in China and Russia shows that there are significant differences between the two countries in terms of legal framework, system implementation and social effects. China's parental responsibility system is mainly based on the Civil Code, which emphasizes the family as the main body of responsibility, ensures the rights and interests of minor children through legal means, and gradually strengthens the combination of family education and social responsibility. Russia, on the other hand, clarifies the basic responsibilities of parents through its Family Law, emphasizing state intervention and social support to ensure that children's basic needs for life and development are met. The systems in both countries have their own strengths and weaknesses in terms of implementation and effectiveness, with Russia significantly increasing the fulfillment rate of parental responsibility through legal coercion and social intervention, while China has achieved significant results in promoting parental responsibility, but still has deficiencies in its implementation and monitoring system. Overall, the effectiveness

of the parental responsibility system depends not only on the legal provisions, but is also closely related to the improvement and enforcement of the implementation rules. Future improvement of the system should take into account the respective social, cultural and economic contexts to further optimize the implementation mechanism of parental responsibility and ensure better protection of children's rights and interests.

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