

Controversial Issues of the Draft Law on Pre-school Education and Strategies to Eliminate Them

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Abstract: *The introduction of the Draft Law of the People's Republic of China on Pre-school Education is of great significance and has many highlights. However, there are regulatory problems such as insufficient protection of the rights and interests of infants and young children aged 0-3, controversial de-primarization of preschool curricula, and the need to improve the treatment and status of early childhood teachers and their teaching qualifications. In order to improve and implement the Act, the following recommendations are made: accelerate legislation on childcare services to safeguard the rights of infants and toddlers aged 0-3 years; promote two-way convergence between primary and secondary schools to create a harmonious childcare environment; and enhance the mechanism for accessing teachers and raise the standard of their remuneration, in order to promote the high-quality development of pre-school education.*

Keywords: Preschool children, Preschool law, Early childhood, Early childhood teachers, Child care services legislation.

1. Introduction

The Draft Law of the People's Republic of China on Pre-school Education (Draft) (hereinafter referred to as the Draft) was first publicly solicited for legislative opinions on the website of the Ministry of Education on September 7, 2020. Three years later, on August 28, 2023, the Fifth Meeting of the Standing Committee of the 14th National People's Congress considered the new "Law of the People's Republic of China on Pre-school Education (Draft)" (hereinafter referred to as the Draft), which was followed by the official website of the Ministry of Education once again publicly soliciting opinions from the society. Two consecutive extensive consultation on legislation reflects the State attaches great importance to pre-school education legislation, meaning that China's pre-school education is accelerating into a new stage of "having a law to follow". The Draft presents distinctive highlights in a number of areas; it not only clarifies the unique status and nature of preschool education in the education system, but also establishes the Government's responsibility and mission to take the lead in the development of preschool education, and establishes the purpose and philosophy of child-centered legislation.

Through the literature review, it can be found that the research on the legislation of preschool education presents two phases, respectively before and after the introduction of the Exposure Draft. Before the introduction of the Exposure Draft, scholars mainly focused on the process of pre-school education legislation [1], legislative purposes [2], legislative purposes and principles and other core issues [3], laying a solid theoretical foundation and practical direction for pre-school education legislation. With the introduction of the Exposure Draft, the research focus has gradually shifted to exploring the scope of application of preschool education service targets [4], legislative highlights and shortcomings [5], as well as childcare issues in preschool education legislation [6], etc., which has deeply explored the practical value and social impact of preschool education legislation, and also revealed the problems and shortcomings of the legislation, which has provided valuable academic support for the improvement of the legislative system of preschool education. Although the

existing studies have achieved fruitful results, the in-depth exploration of the rationality and legality of the content of the latest Draft is still insufficient, especially the analysis of controversial issues is not comprehensive enough, such as what are the problems of the Draft? What are the potential implications of these problems? What are the strategies to eliminate these problems? etc. still need to be further studied and answered. In view of this, this paper follows the research idea of "raising problems, analyzing problems, solving problems", and on the basis of comprehensively analyzing the contents of the Draft, strives to comprehensively grasp the doubts and deficiencies, and puts forward targeted solution paths for legislators' reference by dissecting the specific manifestations and potential impacts of the problems so as to promote the enactment and implementation of the Preschool Education Law in a more reasonable and effective way. It is intended to promote the promulgation and implementation of the Law on Pre-school Education in a more reasonable and effective manner, and to provide intellectual support for the orderly development of pre-school education in China.

2. Presentation of Regulatory Issues in the Draft

2.1 Inadequate Protection of the Rights and Interests of Infants and Young Children between the Ages of 0 and 3 Years Old

Article 2 of the draft stipulates that pre-school education is mainly for children from the age of three years until they enter elementary school, a provision that undoubtedly excludes infants and toddlers between the ages of 0 and 3 years from the framework of the legal safeguards for pre-school education. Although article 73 adds that "kindergartens that are in a position to do so may set up nursery classes for children over two years of age and under three years of age", it is not difficult to see the ambiguity and compromise of this provision, and leaves an obvious legal gap, namely, that infants and toddlers between the ages of 0 and 2 years old do not receive the protection that they deserve within the framework of this legislation.

First, this legislative gap does not guarantee the right of infants and young children aged 0 to 2 to receive care and education. For infants and toddlers aged 0 to 2, their physical and mental development is at a critical stage of growth, and they need to be provided with appropriate care and education. However, due to the lack of legislation, age-appropriate educational resources and childcare services may not be available. During this period, infants and toddlers have rapidly developing brains, learn new skills, form habits and develop emotions through interaction with the environment. The lack of an appropriate childcare environment may be detrimental to the healthy development of infants and toddlers aged 0 to 2 years, and may even have a negative effect on their future learning and life.

Secondly, families' demand for childcare services for infants and young children aged 0 to 3 is becoming increasingly prominent. In the "three-child era", the care and education of infants and young children aged 0 to 3 has become an important livelihood issue of immediate concern to the people. According to a research survey in Wuhan, "81.36% of families have parents as the main caregivers, while the rest of families have infants and young children aged 0~3 years old mainly cared for by (external) grandparents, nannies, etc., or co-cared for with their parents" [7]. More and more young women lack the will to have children because they are unable to take care of them due to their work. At the same time, grandparents are taking on more caregiving tasks among family members, which has led to many family and social problems. Therefore, the search for convenient, safe, professional and inclusive childcare services has become a real need for the people.

Finally, special legislation on childcare services for infants and toddlers aged 0 to 3 years is an important measure to make up for the legislative deficiencies of the Draft. As families and society pay more and more attention to early education for infants and toddlers aged 0~3 years old, and parents' demand for high-quality, professional and safe early education grows, the early education market will surely flourish. However, at present, the qualifications of early education institutions for infants and toddlers aged 0 to 3, the level of teachers, and the content of the curriculum are uneven, and the Draft does not include infants and toddlers aged 0 to 3 in the legislative system for pre-school education; for this reason, there is an urgent need for specialized laws to regulate and guide them.

2.2 Controversy Over the Banning of Primary Schooling in the Curriculum

Article 28 of the draft provides for the "de-primarization" of preschool education curricula, which explicitly states that the preschool education stage shall not adopt primary schooling in terms of curricular content and learning styles. This article has sparked controversy over whether the preschool education curriculum should be "de-primarized".

On the one hand, parents have misconceptions about education. Many parents believe that the draft's explicit prohibition of "primary schooling" is inconsistent with the current state of education in China, and is not conducive to the integration of kindergarten and primary school. At the same

time, parents expect kindergartens and elementary school to take on more responsibility for the connection, but often choose to stay out of it themselves, lacking the sense of active participation. In addition, parents' expectations and training for older children are more oriented toward preparation of knowledge and skills, while neglecting more important aspects such as learning qualities, habits, and rules of behavior, which may lead to difficulties for children in their future learning.

On the other hand, the vagueness of the relevant content of the Draft has led to parental concern. Article 28 of the draft opposes the primary schooling of the curriculum, which is likely to cause concern among parents, although a relevant response is given in Article 32 of the draft, which proposes that kindergartens and elementary school should do a good job of articulating and cooperating with each other, and work together to prepare pre-school children for schooling, and the draft also explicitly mentions that elementary school should insist on the implementation of zero starting point for teaching in accordance with the curriculum standards set by the State. However, it is not difficult to see that the provisions of the articulation of early childhood and elementary school is relatively vague, crude, did not give the kindergarten and elementary school in order to realize the harmonious convergence of the two sides of the specific program, and thus the majority of parents are confused and worried about it. Parents' confusion and concern should not be ignored, and there may be two reasons for their existence: first, some quality elementary school have put forward specific requirements on reading, writing and arithmetic for children enrolled in the school, which makes parents hope that their children can have an advantage at the starting line, thus generating a demand for over-the-top education; secondly, the teaching progress in the first grade of elementary school is obviously faster than that in kindergarten, which also aggravates the parents' concern, worrying that their children can not adapt to the new learning environment and the difficulty of learning. Difficulty. Against the background of the "internalization of education", some for-profit kindergartens and education and training institutions have taken advantage of parents' anxiety and used the bridging course as a gimmick to promote enrollment and make profits, further plunging parents and children into a physically and mentally exhausting race for over-the-top education and learning.

2.3 Improvement in the Status and Qualifications of Early Childhood Teachers

Early childhood teachers, as an important and indispensable part of the educational endeavor, have always been the subject of extensive concern in all sectors of society regarding their status and treatment. The Teachers' Law of the People's Republic of China (hereinafter referred to as the Teachers' Law) clearly stipulates that early childhood teachers should legally enjoy the same status as primary and secondary school teachers. In reality, however, this status is not fully guaranteed.

In terms of legal status, firstly, the Teachers' Law has long provided for the legal status of early childhood teachers, for example, articles 2 and 40 of the Teachers' Law combine to

state that early childhood teachers are an important part of China's teaching force, legally confirming the status of early childhood teachers. At the same time, Article 25 of the Law also stipulates the level of teachers' salaries, and the scope of "teachers" in this article also covers early childhood teachers. However, the Draft does not reiterate that "early childhood teachers are an important part of China's teaching force", which is a key legal provision that inevitably leads people to believe that early childhood teachers are an important part of China's teaching force. However, the Draft does not reaffirm such a key legal provision as "early childhood teachers are an important part of China's teaching force", which is confusing and regrettable. Secondly, the Draft fails to protect the rights and interests of kindergarten teachers. Article 7 of the Draft stipulates that the government shall take the lead in the development of pre-school education, while Article 44 stipulates that kindergarten teachers shall be employed by means of labor contracts, and it is not wrong for private kindergartens to apply this provision, but it is really puzzling that a large number of kindergartens in the public sector have not yet been able to implement the establishment of kindergarten teachers. In addition, the Draft does not specify the standard of treatment for kindergarten teachers in private kindergartens, but only states that private kindergartens may refer to the salary standards of teachers in public kindergartens. This ambiguous statement makes it difficult to ensure that private kindergarten teachers are properly remunerated, and is not conducive to increasing the motivation of private kindergarten teachers to teach. In short, the lack of clarity in the law and the difficulty of implementation in practice have undoubtedly jeopardized the legitimate rights and interests of early childhood teachers, affecting their initiative and creativity in their work, and are not conducive to improving the quality of pre-school education.

In terms of teaching qualifications, there are two obvious problems with the entry qualifications of early childhood teachers. First, the academic requirements are too low, and there is not even a mandatory academic threshold for kindergarten teachers and caregivers. The Bill only requires kindergarten principals to have tertiary education or above, while there are no mandatory academic requirements for kindergarten teachers and caregivers. The entry requirement for kindergarten teachers is only "obtaining the qualification of kindergarten teacher" or "passing the training" in Article 38, and the entry qualification for caregivers is not clearly stipulated in Article 40, which uses the ambiguous phrase "the qualification stipulated by the state" to refer to the academic level. The qualifications stipulated by the state" is an ambiguous expression, so whether or not one has received systematic study in preschool education and whether or not one has practical experience in preschool education is not a necessary condition for teacher qualification. Second, the appointment process is too simple and arbitrary, lacking a strict selection mechanism. The recruitment process of kindergarten teachers is simple and arbitrary, usually requiring only an interview, and the simplistic and sloppy appointment of kindergarten teachers also makes the honor of engaging in the cause of kindergarten education low. Factors such as low academic thresholds, low salaries and sloppy hiring practices make it difficult for preschools to attract outstanding practitioners with high academic qualifications to

join the profession.

3. Strategies for Eliminating the Regulatory Problems of the Bill

3.1 Accelerating Legislation on Childcare Services and Guaranteeing the Right of Infants and Young Children between the Ages of 0 and 3 to be Protected and Educated

In studying the right of infants and young children aged 0 to 3 to be taught and protected, we should look squarely at the gap between the current legislative situation and the actual needs of the public. At present, the legislative ideas of integration and separation of education and care have their own merits, and how to find the best balance between the two is undoubtedly a subject that lawmakers need to ponder. Reviewing the contents of the Draft, its Article 2.2 specifies that the service object of pre-school education is for children aged 3 years old until they enter elementary school. Although Article 73, as a supplement, states that kindergartens with conditions can provide childcare services, this provision obviously fails to fully meet the needs of the community for 0-3 year olds. In reality, many families face difficulties in caring for and educating children between the ages of 0 and 3, and the support and safeguards provided by the draft law in this regard are insufficient; at the same time, there is a lack of specialized laws for infants and young children between the ages of 0 and 3, and some of the existing regulations do not have a high legal status, being only administrative regulations or local regulations [8].

In the face of this challenge, legislators should respond positively to public demands, adopt the idea of legislation on the separation of education and care, and accelerate the promotion of specialized legislation on childcare services for infants and young children between the ages of 0 and 3, in order to provide more comprehensive legal protection for childcare services for children between the ages of 0 and 3. Specifically, the legislation on childcare services needs to address the following key issues: first, to address the problem of insufficient supply of early education services for 0-3 year olds, the legislation should clarify the responsibilities of all levels of government and relevant departments, and promote the construction of a diversified early education service supply system that includes public, private and community-based forms of childcare institutions, in order to meet the needs of different families. Second, in terms of departmental responsibilities, the law on childcare services should clarify the division of responsibilities and coordination mechanisms among education, health, civil affairs and other relevant departments, to ensure that policies and services can be efficiently linked to form policy synergies. Again, to address the problem of uneven quality of childcare services, legislation should establish a strict monitoring and evaluation mechanism to regularly inspect and evaluate the quality of services provided by childcare organizations, so as to ensure that infants and toddlers between the ages of 0 and 3 years can grow up in a safe and healthy environment. In addition, in order to attract more talented people to work in childcare, legislation should also be enacted to ensure that practitioners are treated well, that a reasonable mechanism for remuneration and career development is established, and that the entry mechanism for the childcare service industry is

strengthened to ensure that practitioners have the appropriate professional qualities and skills.

3.2 Promoting the Two-way Interface between Primary and Secondary Schools and Creating a Harmonious Nurturing Environment

How to connect kindergartens with elementary school without going astray into "primaryization" is an issue that must be dealt with in the connection between kindergartens and elementary school. The education department has issued a series of relevant policy documents to clearly oppose "primary schooling in kindergartens", and Article 28 of the Draft essentially reiterates the opposition to "primary schooling in kindergartens". However, the argument that "primary schooling" is a "necessity" and a "necessity" has not subsided among some parents, and it is urgent to reasonably ease parents' educational anxieties and misconceptions.

First of all, analyze the necessity of effective convergence between kindergarten and primary school from the conceptual point of view. Kindergarten and elementary school are two different stages of education, and there are big differences between them in terms of learning environment, learning style and behavioral norms. In terms of learning environment, there are significant differences between kindergarten and elementary school. The learning environment of the former is full of children's interest, and the layout of classrooms and activity areas is in line with the nature of pre-school children; while the learning environment of the latter is relatively serious and quiet, and the design of classrooms and activity areas is more orderly. In terms of learning styles, kindergarten education is based on games, advocating learning by playing, learning by playing, and focusing on the personalized development of young children; while elementary school focus on knowledge education, learning according to the national unified syllabus, emphasizing the systematic learning of cultural knowledge. In terms of behavioral norms, kindergartens focus on children's personal requirements and freedom, with relatively loose and free activity time; while elementary school have strict time management and classroom discipline requirements, requiring students to abide by behavioral norms. Therefore, it is of great significance for the healthy growth of children to take reasonable and effective measures to promote the convergence of kindergarten and elementary school, to eliminate the differences between kindergarten and elementary school education, and to promote a smooth transition between kindergarten education and elementary school education.

Secondly, a two-way convergence mechanism has been constructed in practice. Article 32 of the Draft states that it is important for kindergartens and primary schools to be linked together, but the provisions of this article are rather macro and cursory, and do not specifically provide for a program of linkage that can be implemented. On the one hand, elementary school should be closer to kindergartens in terms of teaching methods, strengthen the adaptability of school-age children to enter elementary school, prohibit the first grade of elementary school from accelerating the pace of the curriculum and increasing the difficulty of learning in any form or for any reason, and strictly implement the provisions of Article 32 of the Draft, which stipulates that "Primary school enrollment

should adhere to the zero starting point of teaching in accordance with the curriculum standards." On the other hand, the content of kindergarten bridging should emphasize laying the foundation for elementary school learning, and kindergartens should be allowed to set up a certain proportion of kindergarten-primary bridging courses for children in the older classes. Therefore, the Draft should add the provision that "kindergartens may set up appropriate kindergarten - primary bridging courses or activities for children in the older classes" to Article 32, so as to complete the supplementation of this article. The provision should be supplemented. In addition, a mechanism for interaction between kindergartens and elementary school should be established to promote interaction and exchange between kindergarten activities and elementary school classrooms, and communication channels between kindergarten teachers and elementary school teachers should be set up to strengthen the connection between preschool and elementary school children, so as to familiarize preschool children with elementary school and stimulate their desire to enroll in school, thereby improving the adaptability of preschool children to enroll in school.

Finally, it is important to recognize that the uneven distribution of high-quality educational resources in China is the cause of the "primary schooling" of preschool education in full swing. To this end, we must continue to promote the quality and balanced development of compulsory education, and constantly narrow the educational gap between regions and schools, clean up the "soil" of pre-school education primary schooling and test-taking, dilute the utilitarian tendency of education, and return education to the children's position, so as to realize the mission of education for the sake of morality and education for the sake of human beings.

3.3 Enhancement of the Mechanism for Access to Teachers and Improvement of the Standard of Treatment to Promote the High-quality Development of Pre-school Education

Teachers are the key to the development of education. The establishment of a sufficient number of early childhood teachers with a high level of specialization and a stable workforce must be committed to upgrading the professional level and status of early childhood teachers, while promoting the continuous development of their professional capacity.

First, the structure of teachers should be optimized and access thresholds should be raised. In order to safeguard the quality of preschool education, the access mechanism for kindergarten teachers must be strictly enforced. Therefore, it is proposed that article 38 of the Draft clearly stipulates that "kindergarten teachers shall have a university degree or higher". This provision is not only a basic requirement for the professionalism of kindergarten teachers, but also a necessary measure to improve the quality of preschool education; by raising the threshold of access, the overall quality of the kindergarten teaching force can be ensured at the source, laying a solid foundation for the improvement of the quality of preschool education.

Secondly, the treatment of teachers should be improved and their legitimate rights and interests should be safeguarded. The treatment of kindergarten teachers affects the stability of

the teaching force, which in turn is detrimental to the high-quality development of preschool education. For this reason, it is proposed that Article 44 of the Draft be amended to read: "Teachers in public kindergartens shall be recruited openly from the community by the local government or education administrative department and shall be included in the unified management of the career establishment; the remuneration system for teachers in private kindergartens shall be implemented in accordance with the standards of similar public kindergartens." The purpose of this amendment is to ensure that both public and private kindergarten teachers who do not have an establishment can enjoy fair and reasonable treatment.

Thirdly, pre-service training standards should be developed to promote professional growth. In addition to graduates of teacher training colleges and universities specializing in preschool education, a large proportion of China's kindergarten teachers are non-preschool education majors and members of the public who have not received higher education; for the former, they lack practical experience; for the latter, they lack specialized knowledge and skills. In order to improve the quality of preschool education, an article on "standards for the pre-service training of kindergarten teachers" should be added to chapter IV of the draft, entitled "Teachers and other staff", so as to legally establish a system for the pre-service training of kindergarten teachers, and to promote the professional growth of kindergarten teachers.

4. Conclusion

Entering the new era, "the concept of the rule of law in education with Chinese characteristics is becoming more and more apparent, the legal system of education is becoming more and more complete, and the rule of law in education is being pushed forward in a deeper and deeper way" [9]. At such a historical juncture, the introduction of the Draft is undoubtedly an important milestone in the construction of the rule of law in China's preschool education, marking the acceleration of China's preschool education into a new stage of "lawfulness". This is not only a strong defense of the public nature of preschool education, but also a rational choice to promote the development of preschool education of high quality. However, it should also be soberly realized that there are still deficiencies in the legislative and theoretical studies of preschool education in China. A series of important topics, such as the care of children aged 0 to 3, the treatment and qualification of early childhood teachers, and the subsidization of inclusive private kindergartens, covered in the legal provisions still need to be further implemented, improved and explored. At the same time, the Draft should also be properly articulated and coordinated with other laws of the same rank, such as the Teachers' Law, the Law on the Promotion of Family Education, and the Law on the Protection of Minors, in order to build a unified and authoritative legal system for education. In addition, as the birth rate continues to fall and the three-child policy comes into effect, the Party and the Government are attaching increasing importance to the protection of children's policies and the building of institutions; therefore, the formulation and improvement of the Childcare Law for infants and toddlers between the ages of 0 and 3 years and the relevant supporting rules of the Pre-school Education Law will inevitably be put

on the agenda, so as to provide a more complete legal system for the physical and mental health and growth of China's children, as well as for the continued healthy development of the cause of pre-school education.

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