

Research on the Socialized Relief Mechanism of the School Safety Accidents

Yu Liao^{1,2}

¹Chongqing Academy of Ethnic Minorities
Yangtze Normal University
Fuling, Chongqing, China
²Institute of Southwest Minority Research
Southwest Minzu University
Chengdu, China

Abstract—It has aroused more and more social attention to the frequent occurrence of school safety problems, among which the most crucial issue is whether the victims can get prompt and adequate relief. Due to the imperfection of the compensation system for the school safety accidents in our country, the schools or infringers often get into trouble for the failure of compensation. Therefore, it is urgent to accelerate the construction of socialized relief mechanism for school safety accidents damage. Based on the socialization of “rights and regulations”, this paper aims to disperse school risks, draws lessons from the treatment methods of road traffic accidents in our country, takes liability for tort as the basis, and takes the socialization of school safety accidents as the main line, to construct the multi-integrated socialized relief mechanism for the school safety accidents damage, which combines with tort liability system, school security insurance system, general commercial accidents insurance and social relief fund.

Keywords—School safety accidents; damage compensation; socialization; relief mechanism

I. THE ORIGIN OF THE PROBLEM

In recent years, the school safety accidents have occurred frequently in China. When safety accidents occur, many schools often give up their legitimate rights and interests, and some even use the sacrifice of the school and teachers, or improper protection of the rights and interests of the school and teachers to “pour oil on the waters”. According to the analysis report on the overall situation of safety accidents in national primary and secondary schools published by the Ministry of Education, the increasing controversy of school safety accidents focuses on the determination of the actor's responsibility and the liability for damage compensation. The core issues are the responsibility investigation and compensation liability for the loss, as well as the perpetrator's ability to compensate.

The infringement relief has always been the main relief of school safety accidents, and the infringement system is produced along with the gradual development of society. After an accident, it is increasingly unrealistic to rely only on personal power to compensate for the loss of the victim, at least not in a timely and effective way. People more strongly

demand that society can properly disperse relief responsibilities and reduce their pressure. It is required that a diversified relief system of school safety accidents damage should be established, because of the limited compensation of the school and the injurer, and the difficulty for victims to obtain compensation. It can alleviate the burden of schools and injurers to keep the sustainable development, provide victims with basic relief and security, so as to reduce the negative impact of society and the pressure of public opinion.

II. THE CONNOTATION OF SOCIALIZED RELIEF FOR SCHOOL SAFETY ACCIDENTS DAMAGE

The so-called socialized relief for school safety accidents refers to spreading the responsibility of the perpetrators to most people and the whole society in a certain way and method, which is a sharing mode of social risks. How to timely and completely compensate the losses of the victims is a systematic design centered on “relief the victims”. The focus of this process is how to make up for the losses and how to transfer the losses. This new type of relief model has the following obvious advantages: first, it can guarantee the rights and interests of the victims; second, it can prevent the perpetrators from being trapped in life or being unable to develop sustainably due to the compensation for the damage, so that the damage will distribute to more people.

The socialized relief system for school safety accidents damage is a conceptual category. Specifically, it consists of four parts: legal system of infringement liability, school liability insurance, general commercial accident insurance system and social relief fund system [1]. What makes the four systems different is that they are developed by different subjects. The infringement relief is generally claimed and initiated to the injurer by the victim of the damages [2]; Liability insurance system starts from the purchase of liability insurance, and after the accident, the perpetrators transfer their compensation liability to the insurance company [3]. The general commercial accident insurance system is that the actor purchases commercial insurance, and the accuser transfers the personal injury and property damage of the victim to the insurance company. Since the compensation fund for the victim is provided by the insured, both of which satisfy the

Fund project: Social science program project of Chongqing in 2016, "Research on Social Relief Mechanisms for School Safety Accidents" (Youth Project) (Project No. 2016QNSH26). Results of the bidding projects of Research Center of the Economy of the upper Reaches of Yangtze River(201604).

goals of socialized relief that is spreading risks and sharing losses. The social relief fund system of school safety accidents refers to the fund system which is set up by the state and sponsored by the state, schools and individuals, and the nature of it determines its role in dispersing social risks.

III. THE CONTENTS OF THE SOCIALIZED RELIEF SYSTEM FOR SCHOOL SAFETY ACCIDENTS

The infringement damage relief, as a traditional way of damage relief, has played a major role in the school safety accidents all the time. The various concept systems are relatively complete and widely used, and people are familiar with the contents of the infringement damage relief. Therefore, this paper will not discuss about the specific application of the infringement damage relief in the school safety accidents. It will introduce the latter three systems in detail and evaluate them one by one.

A. School Liability Insurance System for School Safety Accidents

School liability insurance refers to the personal injury accidents caused by students in school education or activities, which are formed by the fault of school, so that the school should bear the liability for compensation [4]. However, the insured school can shift its responsibility of compensation onto the insurance company. Moreover, it is necessary to explicitly stipulate the relief for the school safety accidents damage, and to clarify the primary and secondary relations of infringement liability and liability insurance. Liability insurance is established on the basis of tort liability. Otherwise, it is impossible to share the responsibility for losses independently.

B. General Commercial Accidents Insurance System

Students safety insurance is a kind of commercial insurance that has been widely applied to students. It is specially designed for students with low premiums and high compensation, which is also the right that every student can enjoy [5]. However, it is unfair for the victims to insure themselves to disperse their losses which caused by the inappropriate behavior of the injurers.

C. Social Relief Fund System for School Safety Accidents

Social relief fund system for school safety accidents is a kind of "bottom line" relief which is forced to intervene by the state. It means, after the school safety accidents, and under the circumstances that the infringer is unknown, the infringer escapes, the infringer lacks the ability to compensate, and the damage is caused by an accident, in order to protect injured students to get immediate needed medical care and basic living security, that social relief system for the school safety accidents should provide all or part of the medical expenses of the victimized students, prepay funeral expenses, distribute difficulty aids, and recover the compensation of the responsible individual through the liability compensation system of the social relief fund [6].

IV. THE SYSTEM CONSTRUCTION OF THE SOCIALIZED RELIEF SYSTEM FOR SCHOOL SAFETY ACCIDENTS DAMAGE

In order to establish a system for the parallel development of infringement compensation, liability insurance, social relief fund for school safety accidents and relief system of general commercial accidents insurance, it is particularly necessary for various relief systems to be closely coordinated in the coordination system.

A. The Relief Order of Socialized Relief System for School Safety Accidents

According to Chinese scholar, Wang Liming, the relief order in the field of private law, that is, tort liability law, school liability insurance and general commercial accidents insurance, should "establish the priority rule of liability insurance payment". The order of school liability insurance relief is prior to infringement liability. The general commercial accidents insurance also takes precedence over the application of tort liability law. In the relationship of social relief fund and school liability insurance, as the school liability insurance compensation can be paid in advance, therefore, liability insurance and accident insurance should be applied first, and social relief fund should play a supplementary role. While in the relationship of social relief fund and tort liability law, the urgent priority of social relief fund can play its role, and the tort liability law can play a supporting role.

B. The Relief Amount of the Socialized Relief System for School Safety Accidents

According to the concept of tort remedy, the general infringement should apply for full compensation for the losses. The remedy function of the tort law is more important, especially when the general commercial accidents insurance, liability insurance, relief fund and other social relief can not make adequate relief of the victim. Since the compensation for personal injury in the field of social relief fund only has the function of minimum security, it only has the function of emergency and supplement most of the time.

C. The Right to Claim in the Socialized Relief System for School Safety Accidents

The insured party of the school liability insurance is the school. The school claims compensation from the insurance company, due to the non-subjective fault of students' personal injury and property losses. However, students as a third person, cannot directly request the insurance company to pay the insurance, because they are not in the position of the beneficiary in the insurance contract. Only when the school compensates students, can the school request the insurance company to pay the insurance. Which is not conducive to protecting the victims. It should be directly obtained the right to claim compensation from the insurance company through legislation, that is, "the system of direct litigation by third party victims". However, if the victims are in urgent need of relief for personal injury and cannot get timely relief through other relief systems, they can apply for social relief fund as an emergency relief system. After the social relief fund was provided, it also obtained the right to recover from the infringer, which was limited by the relief provided to the victims.

V. CONCLUSION

In risk society, the status and function of tort law have gradually declined in many aspects due to the influence of liability insurance, social relief, commercial accidents insurance and other relief systems, and the relief tort law has lost its dominance. The limited compensation, narrow coverage and low levels assistance of liability insurance, social relief fund, and general commercial accidents insurance determine that any single system can not independently undertake the important task of school safety accidents compensation. Especially when the insurance market and social security system are not perfect in China, tort law still plays an important role in the stage of social economic conditions for a long time. The current situation of tort relief system requires the diversified social relief system, which is also the future trend of social development.

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