On Campus Violence and Its Legal Regulation

Peng-Fei ZHANG
Lanzhou Institute of Technology, Lanzhou, Gansu, China
804306702@qq.com

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Abstract. The campus violence broke out frequently, has a serious impact on individuals, families, society and the interests of the state. Nowadays, prevention of the campus violence for teenagers who are under age is also limited to the education administrative measures, the measures for the prevention of campus violence deterrence is limited, campus violence perpetrators' punishment is not enough to offset the damage. In order to prevent the occurrence of campus violence and create a harmonious, peaceful and orderly learning and working environment, we seriously study the regulation problem of campus violence and analyze the campus violence cases having occurred, found out the problems of legal regulation, and put forward the method of legal regulation to solve the problem of campus violence by means of punishment and education.

Introduction

Campus violence is a heavy topic, in the fourth meeting of the second session of the National People's Congress, representative proposed legislation proposal in view of the campus violence. As information technology continues to develop, more and more campus violence is released, let us have a new understanding of campus violence, the violence caused by the damage, social influence. Currently, our theoretical research for the campus violence is also limited to ideological education, management and psychological education etc. research on legal regulation of campus violence is little or not new, deep. In order to prevent school violence from occurring, we need to in-depth study on how to regulate according to law.

The Definition of Campus Violence

At present, there is not a unified concept of campus violence. Li Dapeng pointed out: “campus violence refers to violence in schools or criminal behavior.” [1] Guan Xiaojing said: “the campus violence refers to violence on campus.” [2] This definition defines the concept of campus violence in the area of violence on campus. Lei Hengsheng pointed out: “the so-called campus violence refers to the students in the campus of the students violated the personal, property and other rights of the violent acts.” [6] The definition of this category is mainly to hurt the crowd, mainly the physical security of teachers and students.

The definition of campus violence in Taiwan area of our country is also inclined to the campus as the center of the definition mode, mostly stressed that the campus violence is a kind of violence occurred in the campus. For example Chen Cixing said: “in the campus, to achieve certain illegal acts of criminal intentions, to compel the threat as a means to suppress the victim's ability to resist and intentions, and for the atrocities that occur between students, teachers, schools and school intruder, destruction and acts against the life, health, property.”

Hong Kong area seems to tend to the teacher and students as the center of the definition model, tend to think that the campus violence is a kind of violence by students. For example, in February 2004, education workers of the Hong Kong Federation do the campus violence investigation on the main bullying behavior among students.

The Campus Center of the United States Preventive violence defines campus violence as: “any damage to the mission of education, teaching atmosphere and harm to the efforts of the school
prevention of human body, property, drugs, firearms crime, destruction of the school of law and order.”[8] American scholar Henry pointed out: campus violence not only refers to the physical or sexual violence, including emotional and psychological distress and interpersonal damage caused by race, gender and class discrimination, and concentration of the conflict caused by the forced control.

We believe that the campus violence refers to a kind of infringing the behavior occurring on campus, or superintendent of schools in the region of the teaching, experiment, practice, life or movement in the process, human behavior intentionally damage behavior of the subject of legal relationship of education for the person or property, and to the level of severity.

The Harm of Campus Violence

Individual Being Injured

Campus violence is a violation of its behavior, so it is inevitable to cause a variety of damage. Such as the occurrence of campus violence in a Lanzhou University at 2’clock in the morning on June 17, 2015, more than 20 college students fight because of drinking too much, leading to a student to death on the spot, the event time is the time when graduates are leaving the school. The damage caused by the violence on campus is the end of human life. There are many similar incidents in the country; some are more serious, directly causing people's physical damage.

Family Damage

Campus violence are often infringed on the person or property of the object by injury or loss as a result, the families of the victims cause great harm, first of all, family members suffer from mental damage, such as the cases causing death of the victim, families suffering from spirit strike. Followed by the campus violence causing direct damage to the aggrieved family’s property such as the parents give the child patient cost after school violence have occur and deduction of wages because of delaying the work and the cost of transportation, accommodation and other expenses. Some campus violence caused mental damage to the victim's family, and even after many years, the victim's family is still difficult to heal the wounds of the heart.

Social Damage

Effects caused by the violence of the campus on the society is also great, firstly, disruption in the normal teaching order of the school, after the occurrence of campus violence, causing direct campus order confusion, such as in the above cases, schools have been interviewed and surveyed by news media, public security organs. Families of the victims have impact on campus, they cry, take hall on campus, ask for the high cost of compensation, teachers and personnel have no energy to work, campus violence interrupts the normal work, some media’ reports is misleading, causing relatively large negative social emotions, even some of the families of the victims revenge on society by extreme means to vent their dissatisfaction, campus violence in different level influence social harmony and undermine social integrity.

Legal Regulation of Campus Violence

Administrative Legal Responsibilities

Students during the school receiving their education and management have access to the right of education and teaching based on the exercise of the law. Correspondingly, the students are “under management and being a leader” status. According to “Law on the protection of minors of People’s Republic of China article twenty-first, article sixty-third,” “teacher qualification regulations of the People’s Republic of China “article nineteenth, forty-second” rules for the implementation of the compulsory education law of the people's Republic of China, teachers use violent means to punish the students, the means of education is still not correct, if the circumstances are serious, the teacher shall
be given administrative punishment by the administrative department of education or above the county level people’s government, or the public security organs. If the teachers cause adverse effects, the qualification of teachers will be revoked.

Civil Legal Liability

This kind of legal relationship is mainly in the violence of the campus, such as teachers, students, or outside school personnel whose acts violated the victim's civil rights. Our citizens have the right to life, the right to health, the right of name, the right of reputation, the right of personal freedom and the right of privacy and the right to property. As long as he/she violates the rights of citizens or their property rights, he/she should bear the corresponding civil liability. According to “the general principles of the civil law provisions of the people’s Republic of China”, the actor shall bear the following civil liability, civil liability for stopping the infringement, rehabilitation, eliminating the effects, apology, and compensation for any losses.

Criminal Legal Liability

The criminal nature of the campus violence refers to the acts of violence on campus; The criminal nature of the campus violence such as robbery, robbery, extortion etc. infringement property crime and homicide, injury, rape crime and harassment, indecent assault are the main types of infringement of citizens’ personal rights and the democratic rights of crime. The same crime leads to different results due to different age, based on our country criminal law, crime subject bear legal liability provisions of the age of criminal responsibility, completely not bear criminal responsibility, relative criminal liability age and full criminal responsibility provisions concerning the age of criminal responsibility, 14 years old don’t bear entirely criminal responsibility; during the age of 14 to 16 years old, only a specific crime criminal responsibility is to be borne, belongs to the relative age of criminal responsibility provisions; bearing criminal responsibility above the age of 18 because of campus violence. This is a criminal law anomie, due to the occurrence of many campus violence in primary and secondary schools, most of them are minors, obviously infringement of man-made damage is very serious, but because of the age they don't bear the corresponding legal liability, such as 6 middle school students beating one of my classmates in the same school, after parents reported, the public security organs don’t deal with it because of small age as an excuse. Even some authorities think students’ making trouble is normal, for student violence often is loose a lot, resulting in violation of the body, even more arbitrary. The United States youth criminal is very complex, there is a big difference between states. The legislative spirit, a juvenile committing a minor crime should not be taken as a child to look at; No matter how small their age is, they should be the identity of adults as they are responsible for the crimes committed by adults [11]. On 17 February 2016, according to the United States “newspaper” reported on the 17th, Chinese students in Los Angeles Pomona court allegedly kidnapped, beaten and tortured. Three Chinese students, Zhai Yunyao, Yang Yuhan and Zhang Xinlei, in January 5 prosecutors reached a plea bargain agreement, three people were jailed for 13 years, 10 years and 6 years. This punishment is unimaginable in China, never so punished. We therefore advise as soon as possible to develop the campus security law, amend criminal law, increase the campus violence crime, cause damage to the campus violence, criminal law should have corresponding provisions, should modify is criminal law concerning the age of criminal responsibility provisions, it is recommended in full investigation foundation, reasonably determine the provisions of the age of criminal responsibility.

References


