An Exploration and Discussion of Rural Rule of Law Education Based on Local Resources

Xiao-Yu YUE

School of Humanities, Economics and Law, Northwestern Polytechnical University, Xi’an Shaanxi 710129, China
Email: 410527294@qq.com

Keywords: local resources; rule of law education; mediation culture

Abstract: The purpose of rural rule of law education is to reform traditional survival concepts in the rural society and build a survival method dominated by the concept of rule of law. As an inheritance of traditional culture, local resources are both a cultural hindrance and an utilizable education carrier to rural rule of law education. Connotation change and value guidance of typical local resources, including village folk laws, customs and mediation culture can improve the effectiveness of rural legal education.

Introduction

In current China, the contradiction between the increasing growth of rule of law demands and the relatively low rule of law level has become increasingly prominent, especially in the rural area. The fundamental position of the rural area decides its strategic significance to national rule of law construction. Weak rule of law construction in the rural area will definitely hinder the realization of building a country featuring rule of law. Thus, rural rule of law education is imperative. Rule of law education seems to be a rational exploration of humans’ survival methods, but in essence it is a reflection and guidance of the rationality, aiming at cultivating people with the awareness to the rule of law survival method. The fundamental goal of rural rule of law education is to change traditional survival concepts and methods of rural residents and to build a survival method dominated by the concept of rule of law. However, reforms which touch the fundamentals are doomed to face a strong hindrance. How to alleviate the hindrance of the traditional culture is an issue to be answered and solved during the process of rural rule of law education.

Local resources generally include village regulations and agreements, customs and habits, mediating culture, etc. In essence, they are cultural products left through an elimination and inheritance process in accordance with internal principles, and they are the basis to shape the rural survival. Some scholars regard them as residues of the feudal ideas, which are contrary to the modern rule of law spirit, thus thinking that they should be abandoned. However, other scholars think that local resources can help establish the local rule of law system. The author is in favor of the latter. The implementation of the rural rule of law education must be rooted in certain cultural basis. Lack of the support of local culture will make the rule of law thinking mode go into conflict with the original thinking mode of rural residents, and impossible to be integrated into the residents’ awareness. Thus, the employment of local resources can alleviate the hindrance during the rule of law education process. China’s rural area has a profound history and traditional cultural basis. As it is said, “China’s path towards rule of law must emphasize on the utilization of China’s local resources and the traditions and practices of China’s law culture.” [1] Rural rule of law education is no exception, and it should attach great importance to the development and utilization of local resources.
Rule of law education based on local rules and regulations

Local rules and regulations are some social standards jointly formulated by members of China’s grassroots social organizations, and vary in different rural areas, but all have a profound influence on rural life. They are not formal laws and regulations formulated by the country, but a response to the changing environment during the living process. With a strong targeted nature and a small governing scope, they play a more significant role than laws in rural areas. In fact, local rules and regulations have the legal spirit in its essence. For example, their purpose is to help immediately solve conflicts and restore the living order. However, they are after all different from formal laws, and some of their content is even in conflict with laws. Only through proper reform can they contribute to the implementation of rule of law education.

First, integrate the modern rule of law spirit into the connotation of legal rules and regulations. Though the formation of local rules and regulations has undergone a long evolution process, they have a high stability. It is imperatively to promote the positive change of their connotation through national coercive force and proper guidance. Only in this way can they eliminate their old-fashioned feudal ideas and retain the parts positive to era development. Besides, it is necessary to inject the latest rule of law spirit into them to promote organic integration of the two. After that, the modern rule of law spirit can play a role through the old but efficient style, and promote residents’ awareness of rule of law and legal values.

Second, enhance the influence of legal rules and regulations. In China’s rural area, some residents are unwilling to solve problems in daily life through legal means due to the influence of traditional culture. The situation has been improved along with the era development gradually. During the process, the influence of legal rules and regulations cannot be ignored, which can make up for the gap of laws. Through positive changes, local rules and regulations can be equipped with the modern rule of law spirit. The enhanced influence of local rules and regulations is an advocacy of the modern rule of law spirit. The radiation of the influence can gradually increase the interaction between rural residents and laws, improve their understanding of legal values, and cultivate their legal awareness and faith. To the end, local rules and regulations should be continuously standardized in terms of form, enriched in terms of content, publicized in terms of scope and tightened in terms of implementation process. All these can lay a solid foundation for its transformation into formal laws.

Third, transform local rules and regulations into formal laws. Local rules and regulations play an important role in rural areas, but they also have their drawbacks. For example, attention should be paid to the balance between them and laws when it comes to the handling of some specific disputes. If only laws are adopted, the local customs might be violated, and the local residents might resist against laws; if only local rules and regulations are adopted, though the rule of law spirit can also be displayed, it is not laws that are playing a role in solving disputes, which might impair the authority of laws, and objectively go against the purpose of rule of law education. Therefore, it is necessary to gradually turn rural rules and regulations into laws suitable for the rural area. In this way, the local conventions can be preserved, the dominant role of laws can be given into full play and the purpose of rule of law education can be realized.

II. Rule of law education based on local conventions

In China’s rural area, local conventions have a strong influence. They represent survival concepts of rural residents. Even after lots of legal publicity and rule of law education, rural residents subconsciously regard them as their code of conduct. In essence, local conventions are a local knowledge. In the opinion of Clifford Geertz, any law is a local knowledge. From this perspective, local conventions are a law in certain sense. Previous legislation and legal publicity ignores the cultural hindrance of local conventions. As a result, “legislation and legal publicity are hardly acceptable to local residents because of their derivation from local habits or lack of the support of systematic conventions, and cannot become code of conduct for local residents.”[1]
Though laws often have a role to play in China’s rural area, laws are more regarded as a tool. After disputes are solved, local residents often put aside laws, so laws cannot play a long-term role like local conventions. Due to the dual influence of laws and conventions, the rural area is often regarded as both contradicted and united society under the 2D context. If judicial workers want to solve specific problems, they should not only be familiar with laws, but also know local conventions. To correctly handle the relationship between the two is a key to solving disputes. Though local conventions might restrict the role of laws, their positive influence is also obvious. Generally speaking, local conventions promote the value orientation of goodness, and lead rural residents to correctly integrate themselves into the rural living environment. Therefore, some values of local conventions are in line with those of laws, and rule of law education based on conventions is of vital practical significance.

Local residents can be led to learn and trust laws through conventions. At present, many rural areas are under the influence of “no-litigation” culture. Most residents try to avoid litigation, which greatly hinders residents’ connection with laws, and results into residents’ lack of law knowledge and violation against laws. Therefore, it is necessary to positively change the local conventions and the local atmosphere through law publicity and leading role of cadres so as to turn preference for “no-litigation” to readiness to resort to laws. The information transmission in the rural area is very efficient. When individuals use laws to protect their interests, laws can be efficiently publicized, sparking others’ interest in laws. Therefore, to publicize laws continuously based on some typical cases will definitely change the whole atmosphere in the rural area. From resisting against laws to learning laws, rural residents will gradually experience the superiority of modern social laws, and give priority to laws for solving disputes. Besides, under the influence of laws, residents’ legal awareness and thinking will be greatly improved, and their survival concept will be gradually transformed to rule of law concepts.

III. Rule of law education through the mediating culture

China is still in a transition period. The continuous adjustment of the interest pattern leads to the frequent outbursts of social contradictions. However, mediation of various conflicts relies not only on laws, but also on a human-centric mediating culture. Mediating culture can alleviate conflicts and promote settlement of conflicts. As a unique social system and legal culture, mediation of social conflicts can also contribute to realization of rural rule of law education.

From the perspective of historical materialism, mediation is a cultural form naturally coming into existence based on the small-scale peasant economy, and going through the whole history of China. In some sense, it is the most orthodox culture, still playing a role in the contemporary society. The birth of mediating culture was along with the birth of classes, and it underwent different development process in different class environments. At the very beginning, wizards, priests and clan leaders had a huge power because of their holy identities. They played the role of judges in various conflicts among the masses. The mediating activities have persisted till now. Many civil disputes or even criminal disputes in the current rural area are solved by the prestigious. The mediating culture is passed down due to its coincidence with the cultural psychology of Chinese. In this sense, its existence is reasonable. Of course, it is also in conflict with the contemporary legal culture. How to eliminate such conflicts and make a good use of it is an issues imperative to be solved during the implementation of rule of law education.

The implementation of rule of law through the mediating culture is the first step to standardize mediation. Currently, the official mediating institutions are playing a dominant role. However, the rural mediating forces, including clan leaders, village heads, authoritative personages and prestigious seniors, should not be ignored. However, these mediators rely on the ancient experiences, local rules and regulations or customs, and have a little knowledge of laws. Thus, mediation of the type should be immediately standardized. Therefore, it is necessary to conduct legal training or regular mediation training with different areas as a unit, integrate the modern rule of law concept into the traditional mediating culture, and make people experience the legal spirit
during the mediating process. Rousseau once said that laws should not be engraved on marbles nor bronze watches, but in the heart of the public [2]. The mediating culture in line with the modern legal spirit can more easily generate in the heart of the public an attachment to laws, and popularize the concept of laws.

Summary

The purpose of rural rule of law education is to reform traditional survival concepts in the rural society and build a survival method dominated by the concept of rule of law. Rural rule of law education should attach great importance to the development and utilization of local resources. Rural rule of law education can use the local resources such as the local rules and regulations, the local conventions and the mediating culture to improve its effectiveness.

Acknowledgement

This research was financially supported by the Social Science Foundation of Shaanxi Province.

References