

On the Legal Protection of the Rights and Interests of the *Yang Left-Behind Children* in China

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Abstract. With the continuous improvement of internationalization of China, *yang left-behind children* has many characteristics with grand-parenting, poor mental health, bad performance in study, while their judicial rights, enter or leave the region rights, education rights, guardianship rights, medical security rights there exists different degree of vacancies. Under the situation of overseas Chinese affairs of the rule of law, in order to protect the rights of *yang left-behind children* effectively, we should perfect the judicial protection system, extend access time for entry exit visa, effectively protect their education rights, perfect monitoring system and medical insurance system for the *yang left-behind children*.

Introduction

As China has been becoming increasingly important in the international stage, many Chinese go abroad to work and study, which result in many Chinese resident abroad for longer periods. Many children of Chinese citizens were born in foreign countries. Parents due to the long working hours and low economic strength, it is difficult for them to take care of these children, and they sent these children back to the country, so that grandparents, grandmothers or relatives and friends to take care of their living and study. In Chinese social senses, if parents go abroad for work, their left-behind children in China will be called *yang left-behind children*. *Yang left-behind children* are also known as *foreign left-behind children* or *Qiaoxiang left-behind children*. There are some parents go abroad after the children were born and make them stay in China. It will form a separation between parents and children for a long time, and generate a special group. At present, some experts consider that, *yang left-behind children* refers only to the children who have foreign nationality [1], and many scholars also believe that *yang left-behind children* mainly refers to foreign children in China [1]. The word *yang* is a kind of foreign and transnational factor, which is also a kind of foreign and transnational factor, but there is no doubt that the vast majority of *yang left-behind children* who have foreign nationality. Under the situation of

overseas Chinese affairs of the rule of law, this paper will from the perspective of law to study the protection of the rights of *yang left-behind children*, and looking forward to pay more attention to *yang left-behind children* from the overseas Chinese law circle.

Characteristics of Yang Left-behind Children

Firstly, the quantity of *yang left-behind children* is increasing. In China, the sixth national census data shows that, there are 593832 foreign personnel which is including lots of *yang left-behind children* [3]. In addition, one survey shows that, at the beginning of 2012, a total of about 52030 students and the number of *yang left-behind children*, accounting for 18.36% of the total number of students in the Qingtian County, Zhejiang Province [4]. In Guangzhou, Huadu District, the compulsory education of foreign students has reached more than 500 people [5]. *Yang left-behind children* in Jiangmen has reached more than 20000 people, such as Venezuela compatriots Enping will children back to Jiangmen in foster care and study of more than 3000 people. This population at a rate of 5% increments every year.

Secondly, grand-parenting for the *yang left-behind children*. It is common that phenomenon which is the *yang left-behind children* by grand-parenting in concentration area. Some scholars found that it reached 100% in a certain town of Zhejiang province, one survey also found that grand-parenting rate of nearly 100% [6], also reports showed, more than 80% of the *yang left-behind children* by grandparents, outside the custody of grandparents or relatives and friends of temporary custody [7]. In these cases, the majority of the implemented grand-parenting education of the elderly, low qualification of relatives and friends, backward ideas, raise light teaching, body weight light psychology, teaching methods obsolete and backward way of life also affect a child's healthy growth. In the grand parenting care, the elderly or relatives in the care of these children, most people will use indulgence, beatings and other extreme ways.

Last but not least, Many *yang left-behind children* has been waited for go abroad as their target of education, they not care learning, so the relevant knowledge cannot be integrated into their minds. At the same time, because of the old or the relatives of low cultural level, older and lack of energy generally, their learning requirement is not high for *yang left-behind children*. They are lack of relative ability even if they have idea for help their children. It is difficult to help children effectively, which inhibit their learning interest in a certain degree, and thus much *yang left-behind children* become negative, such as somebody like playing truant and dropping out of school, it lead to *yang crime rate* improvement.

Legal Protection Problems of the *Yang Left-behind Children*

To begin with, absence of judicial rights and interests. Late in 2009, in Fuzhou City, nine *yang left-behind children* participate in street fighting event [8], in addition, it is reported that there are *yang left-behind children* into juvie every year [9], these events remind of us a serious facts that *yang crime* subject has been younger trend, its involved the defects of affairs policies of overseas Chinese judicial protection of the rights and interests. The former policies maker did pay attention to overseas Chinese affairs policies to protect the interests of returned overseas Chinese and their relatives too much in the past, they not interest in the interests of overseas Chinese relatively. While the majority of the *yang left-behind children* are ethnic Chinese, the absence of protection of their legal interests. Because the family, school and other places of education mode are so bad that many *yang left-behind children* lacks of learning interest.

What's more, absence of the right and interest of the entry and exit visa. According to the current policy, the term of validity of the visa for *yang left-behind children* is only half a year, and then it can be prolonged twice for half a year each. However, the children should go through the formalities themselves after that, which may waste their time for studying. The administration of affaire of oversea Chinese has done lots of work to improve this situation, in fact, however, this issue in relation to many different departments, which is difficult to coordinate, so it is not be solved now. The parents of these children who work abroad are mostly illegal immigrants, which is impossible for them come back to China to help their children for visa. And then, some countries ask them for visa in their original country, which brings them inconvenient.

In addition, absence of educational equity. Although many *yang left-behind children* grow up in our country, they know little about our traditional Chinese culture. They regard going abroad as the ultimate goal in their ideology while other things become insignificant for them while their parents hold the same belief toward this. Under the influence of this idea, many foreign children aren't interest in learning lesson. Many school lack of a variety of system currently, which is unable to take place of their parents to take care them, some family education service is difficult to start. Many schools focus on the education of the *yang left-behind children* in the language education model, which lack of quality and the absence of moral education, but also the lack of the rule of law education.

In the fourth place, absence of guardianship. The guardianship demonstrates both right and duty of each parent, but in fact not every parent in oversea Chinese families do their duty, and some of them ever think it is enough to give their children money. Recently, China has not clear policy about the guardianship of foreign children, which is very unfavorable for the protection of the *yang left-behind children*. As left-behind children, their greatest expectation is to enjoy home-love and happiness. However, in reality, with the absence of

their parents who work in foreign countries, these children can rarely have proper care, love and even normal family life. Thus, their guardianship rights cannot be guaranteed, which leads to poor psychological health, distorted character and the result in problematic behavior. Those mental and physical problems during their growing stage can, most likely, still affect their character and values as they become adults.

At last, absence of the medical insurance system. Obviously, the medical insurance system is no exception, a prominent embodiment of the protection of the citizens' social security rights. Contemporary, the main beneficiary of China's medical insurance system is Chinese citizens. In other words, only citizens with Chinese nationality are in title of basic medical security. Such setting, however, excludes one group of left-behind children called *yang left-behind children*, because those children hold foreign citizenship while their parents and grandparents still have Chinese nationality. Hence, many *yang left-behind children* in China cannot enjoy the medical insurance. Some families with Foreign LBC buy more expensive commercial insurance. However, in some traffic backward rural hometown of overseas Chinese, due to the mobility problem of the elder, it is inconvenient for Foreign LBC to gain access to those commercial insurance.

Improve the Protection of Rights and Interests System of *Yang Left-behind Children*

First of all, improve the judicial protection mechanism. The improvement of the protection of the rights and interests of the *yang left-behind children*, mainly including two aspects: on the one hand, when these children are infringed by other people and want to protect their rights, their parents have to return their country by themselves or authorize relevant people who can help them to suit, which will be costly because of the transnational protection expenses. In France, the procuratorate can be involved in the cases of custody of minors as a vindicator of public interests, and play as party concerned or subordinate party according to the nature of the case. China may use French system experience for reference. When the legitimate rights and interests of the *yang left-behind children* are infringed, influencing the public interests, the procuratorate can intervene actively to protect their legitimate rights and interests. On the other hand, when the *yang left-behind children* commit crime, the public security organs can give special care depending on the particular circumstances and maintaining the idea of saving a child is to save a family. What's more, related agencies should also provide effective legal relief promptly. In the daily management of protection, the relevant departments should always pay attention to these children in order to curb the *yang crime* at an early age. The government should create a good social, legal environment for the sake of the children's health and growing up. Judicial departments and judicial administrative departments in the registration of *yang left-behind children* should control

the children who committed crime without detention children in community corrections. They can also cooperate with the cultural sector to establish the rule of law education room, sports culture room and other places, and to organize tourism of Chinese culture, urging foreign children to learn the spirit of hard-working.

Secondly, improve the entry and exit visa system. For ethnic Chinese, the most favorable protection is their immigration rights and interests. According to the recommendations from Jiangmen overseas departments and many ethnic Chinese, Chinese entry-exit system can learn from American visa system, issuing valid entry visa which lasts for 5 years or 10 years for multiple times for the *yang left-behind children*. Therefore, in the future correction of the entry-exit visa system, based on the new situation of overseas compatriots, we can make clear that *yang left-behind children* studying in China can be issued valid entry visa for multiple times in 5 years or 10 years. In addition, the foreign affairs department should also coordinate with the countries which *yang left-behind children* mainly belong to, to promote the relevant countries to issue the *yang left-behind children* valid entry visas for multiple times in 5 or 10 years. The continuous improvement of the entry visa system is beneficial for the *yang left-behind children* to concentrate on learning inland.

Thirdly, improve the protection mechanism of education rights. On the one hand, it is protected by the government, that is led by the government, overseas Chinese Affairs, women's federations, Communist Youth League, the Federation, the public security organs, cultural department, education department, etc. departments in charge of the division of labor, with each other, altogether with take up public service function, optimize the social atmosphere, to strengthen the regulation of Internet cafes, according to crack down on internet cafes, as far as possible to reduce the detrimental ocean *yang left-behind children* taught social factors. On the other hand, it is the optimization of the school curriculum. In 2003, Chen Chaojing, an ethnic Chinese, has founded Jixian Chinese and western British school in Jiangmen. The school for the *yang left-behind* students age different, familiar with various subjects in varying levels of actual, specifically for Venezuela *yang left-behind children* do school, some students has more than 18 years old, some students every subjects in different grades. The school also set up a moral education curriculum, and the relevant aspects of a warm. In order to solve the problems of the *yang left-behind children*, unite *yang left-behind children* heart, and let them feel at ease in his study and inherit Chinese culture, local and moral education is very important.

Fourthly, improve the legal system of guardianship for the *yang left-behind children*. Based on reality, under the guidance of the government and encourage, some social service agencies to set up a class of family mode service. So-called family pattern, namely ocean in a certain range of community combined with a certain number of *yang left-behind children* form a new household, these *yang left-behind children* scattered, is endowed with different

roles in the family, and *yang left-behind children* surrogate parents by professional social workers as. The parents because of long time not together with their children's, the lack of parental care, and it is easy to harmful to the health of children. Family mode with Chinese traditional to *recognize the godfather or recognized gannian*, and *contract activity* is similar, which is easy to let the general public to accept. In the family mode, the parents of the family in the family plays the role of parents, and from the study, life, emotional and other aspects of the *yang left-behind children* to give effective guidance. Class family mode from a certain degree of relief to the *yang left-behind children* do not have a long time to care for the children, but also allows children to experience the joy of family growth, in the family role as appropriate, to prepare for the future return to their families. In addition, due to the cost of livelihood services in health care, education has been spending a lot of existing social resources are not able to supply Chinese citizens, which is difficult for these types of family mode of operation to provide financial funds.

Finally, improve the medical security system for the *yang left-behind children*. *Yang left-behind children* round in our life all the year, if we don't protect the health of social security of them, it will inevitably lead to various factors of social instability. Furthermore, the ethnic Chinese in essence with us the root and source, and also live in a same social environment, only because of their nationality, while ignoring the essence of things. With the increase of the degree of internationalization, many foreign students are studying in China. Our medical security system should not only protect own citizens, but should include these perennial foreign students whose studying in China. It is necessary for us improve foreign student medical insurance system, which is not only solve the problems of health insurance for foreign children, but also solve the problems of medical insurance for foreign students. In particular, for those who are in the transitional period, not the entrance of foreign children, the government should set up more foreign students of medical insurance type, and also let these foreign children enjoy the appropriate medical treatment.

Conclusions

To sum up, there are many characteristics for the *yang left-behind children* with grand-parenting, poor mental health, bad performance in study, while their judicial rights, enter or leave the region rights, education rights, guardianship rights, medical security rights there exists different degree of vacancies in China since the reopening of the economy to the world. According to many reports, many *yang left-behind children* are the ethnic Chinese, which means they have Chinese in their blood. Under the situation of overseas Chinese affairs of the rule of law, in order to protect the rights of *yang left-behind children* effectively, Chinese Government should perfect the judicial protection system, extend access time for entry exit visa, effectively protect their education rights, perfect monitoring system

and medical insurance system for the *yang left-behind children*. Only in this way, can we build a harmonious world and increase the international influence of China.

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