

How effective is the Campus sports personal injuries related laws and regulations in China and what are the optimization methods?

Ziyue Zhong

Abstract:

This study examines the situation of Chinese campus sports - related personal injuries and the legal approaches to dealing with them. Through data analysis and case studies, this research emphasizes the role of insurance in resolving campus sports injuries in China. The findings reveal that further perfecting the division of rights and responsibilities regarding personal injuries in campus sports is beneficial for enhancing campus sports safety and creating a better physical education environment.

Keywords: campus, sports injuries, insurance, campus sports in China

1 Introduction

Physical education is a crucial part of school life. Research has shown that sports can enhance students' physical fitness, improve their heart and lung functions, boost their immunity, and increase adaptability. According to a recent survey conducted by China Youth Daily (2021), 92.97% of the respondents believe that sports are necessary. Moreover, 81.02% of them think that the benefits of exercise are conducive to enhancing physical fitness, and 58.15% can relax and relieve stress through sports. However, in recent years, the number of personal injuries on campus has been increasing, and many of these cases have received widespread attention. As Lin (2011) reported in her study of one primary and middle school in Shanghai, among 1400 students, 96 were psychologically affected by injuries, resulting in approximately 591.5 missed school days, about 274 missed work days for family members, medical costs of around

47080 yuan, and approximately 676 hospitalization days.

Campus sports injuries have brought significant negative impacts to students. Although not all sports injury accidents are caused by schools or physical education teachers, Wang and Jiang (2022) analyzed this issue from a legal perspective. They argued that, judging from recent judicial precedents, when determining whether a school or a sports teacher is responsible or at fault, the court's final judgment often indicates that the school bears at least part of the responsibility. Evidently, these incidents have also caused troubles for school physical education teaching. Due to the fear of bearing the consequences of campus sports - related personal injuries, some schools have canceled teaching programs that may pose certain risks (ibid.). This phenomenon reflects the contradictions and underlying debates between practical situations and laws/regulations.

Hence, two questions arise: Can most campus sports risks be eliminated simply by removing more dangerous PE programs? What roles do related regulations and laws play in such incidents, and are there better solutions? Currently, the legal field has also paid much attention to campus sports injury cases, which serves as the analysis entry point of this dissertation. Therefore, through literature research and questionnaires, this paper aims to evaluate the effectiveness of China's laws and regulations related to campus sports injuries in primary and middle schools and propose suggestions for legal optimization and reducing injury cases.

2 Literature Review

This paper summarizes and evaluates the studies of past scholars on the personal injury incidents of campus sports in China and their handling methods from the legal perspective, as well as the referable laws and regulations related to the personal injury incidents of campus sports in other countries in order to acquire a proper understanding of the whole picture.

2.1 Studies of campus sports injuries in China

As mentioned in the introduction, the campus sports injuries should be paid more attention to ensure the health and security of students, and currently, some scholars shed the lights on this issue. In a research, Gao (et al., 2020) studied about the condition of campus sports injuries in Jiangxi province in China by using SPSS and other sports statistics related software to analyze the variables. They analyses the proportion of sports injury cases in various schools in Jiangxi province, found that most of the cases are taken place in primary schools and Junior schools, at 22.41% and 18.33% respectively (ibid.). This data helps to justify this paper's research target selection. Gao (ibid.) also noted that the main causes in Jiangxi province were the inadequate school education and management, the overweight and protection of PE teachers, and students' lack of sports safety awareness and common sense. Jiangxi province can only represent a part of China, not enough to generalize, so more information is needed.

In Li's research (2020), she summarized 120 cases about campus sports injuries in middle schools and found that accidents occurred in physical education or physical education activity lasses in 57 cases (48%), which shows that the highest percentage of injuries occurred in P.E. classes. More importantly, when evaluating the reasons, she proposed the ideas from a law perspective Li believed that the relevant provisions of the current laws and regulations on the dispute handling of such accidents were not detailed and specific, due to the differences in the identification of

facts and the application of law, so it was possible to make completely different judgments for cases with similar circumstances.

The above two articles are helpful to this paper's analysis because they first gave a valuable introduction to China's campus sports injuries. More importantly, Li's research looks deeper into the difficulty of dealing with this incident practically, pointing out the current Chinese laws' drawbacks in this field, which offers useful arguments and evidence as this topic is the main research question of this paper.

2.2 Discussions about laws regarding campus sports injury and its effectiveness

Some developed countries in the world have made some countermeasures to the personal injury accidents in campus sports. Japan has enacted the "Japan School Safety Law" related to school safety, and the "School Sports and Health Safety Law" related to student sports health (1958). The American sports insurance system is relatively perfect, through allowing students to buy professional school sports insurance to achieve the effective transfer of risk, to minimize the burden of school compensation (Li, 2020). However, campus student insurance in China is not widely available and is not mandatory, which means that victims often do not receive adequate compensation to cover medical expenses, which also adds to the compensation burden of schools.

There are also some laws in China that make relevant provisions for personal injury incidents in campus sports. For the handling of personal injury incidents in campus sports, According to the Civil Code of China (2021), if an adult is injured in a school physical education class, the division of responsibility is different from that of an adult, and it should be looked at in two cases. First, in the case of injury to a person without capacity for civil conduct under the age of eight, the school shall bear the tort liability according to the provisions of Article 1199 of the Civil Code, but if the school can prove that it has fulfilled its duties of education and management, it shall not bear the tort liability (ibid.). Second, in the case of injury to persons with limited capacity for civil conduct who are over the age of eight and under the age of 18, according to Article 1200 of the Civil Code, if the school fails to fulfill its duties of education and management, it shall bear tort liability, and if it has fulfilled its responsibilities of education and management, it shall not bear responsibility (ibid.).

However, the Civil Code does not specify how to judge whether schools are performing their duties of education and management. It also has no treatment for the existence of third party harm. This reflects that China currently has

no laws and regulations specifically targeting personal injury incidents in campus sports. According to Article 26 of the “Measures for the Handling of Student Accident Injuries” (2021), the school is responsible for student injury accidents and appropriate economic compensation, but does not undertake to solve the hukou, housing, employment and other matters not directly related to the rescue of injured students, compensation for the corresponding economic losses.

Based on the situation, the current literature discussed and commented much about the effectiveness of and possible suggestions on today’s Chinese laws and regulations regarding the campus sports injuries. For instance, Lu (2022) believes that if the principle of self-risk is applied, which means when the victim voluntarily participates in an activity that may involve risks, unless the organizer or other participants are at fault, the victim shall bear the consequences of the resulting damage, needs to be applied on campus, and there need to be more strings attached where the victim student must have no legal or moral obligation to engage in the adversarial sport and be purely voluntary. The self-risk principle may apply to adversarial sports in schools, where students participate voluntarily, but in most areas of China, physical education is included as a separate subject in the high school entrance examination, which includes but is not limited to long-distance running, sprinting, standing long jump, sit-ups, etc. Sports scores are counted directly into the total score, so in this case, most students have to devote a lot of time to participate in the corresponding sports practice and tests.

Additionally, Huang (2020) believes that the principle of fair liability, that is, the principle of reasonable sharing of losses by the parties, is not suitable for campus sports injury cases. If applied, it will discourage the enthusiasm of schools and physical education teachers in physical education, which is not conducive to the development of national physical education. Li (2020) further argued that although the school’s education, management and the duty of protection was regulated by relevant laws and regulations, the specific case facts were always more complicated than the law. These views reveal that whether to fulfill the responsibility of education management and security obligations has become one of the focal points of the two sides.

To sum up, for the countermeasures to personal injury in campus sports, researchers have proposed comments and corresponding countermeasures from different positions and different aspects to reduce unnecessary injuries to students in schools. However, there are still some shortcomings to be solved in previous studies. The results are too macro and fails to make detailed classification. Due to the deviation of cognitive ability, students at different ages

and learning stages have different understanding ability for unexpected injuries that will occur. For primary school students, when they have just started to contact campus sports, their movements are often rigid and uncoordinated, with many redundant wrong movements, and injuries are often caused by movement errors.

For senior primary school students or junior high school students who have studied for a period of time, they can successfully complete the movements, but they will make mistakes when confronted with stimuli. If they meet the puberty of students at this stage, their personalities are often relatively strong, and there are often too fierce confrontations on the playground, resulting in injury accidents. For students who have a certain foundation and time accumulation of campus sports, the technical movements are more mature, and the injuries on the court are mostly accidental injuries. Therefore, the requirements of injury prevention for students at different stages are also different. Teachers have different requirements for different types of students, and can not be generalized in the division of rights and responsibilities, which requires the current laws to be more updated and cutting-edge.

2.3 Evaluation of resources

At present, there are still some research gaps, such as how to determine the rights and liabilities when students are injured by a third party, and how to determine the fault party legally. The existing laws in China lack relevant further provisions. for example, “Judging from the current judicial practice in our country, for the principle of liability and compensation in campus sports personal injury accidents, the judgment of local courts is not the same, and there are disputes in theory and practice.” Wang.W.N. (2024). Therefore, this dissertation aims to investigate the effectiveness of Chinese laws and regulations regarding campus sports personal injuries and put forward possible suggestions from both legal and practical perspectives.

3 Methodology

In order to complete the research aim, this paper needs to understand the main situation of personal injury incidents in campus sports in China, including the data about these incidents across the country in recent years, the main influencing factors, and the laws regarding campus sports injuries as well as different scholars’ debates about it. The research methods are questionnaire survey and literature research. The reason for choosing literature reading is that it can be regarded as the method with the lowest implementation difficulty and the authority and credibility of resources are guaranteed once articles are collected via academic platforms. Questionnaire survey is also convenient

to acquire the supplementary information about primary and middle school students' experience of campus sports injury. After the questionnaire is published, data can be collected online.

3.1 Questionnaire

This essay will first use the questionnaire research method, and the survey objects are mainly primary and middle school students. The questionnaire gave a basic definition of campus sports personal injury incidents, asked them whether they have a certain understanding of such incidents before, and whether they have encountered or witnessed such incidents before. It also surveyed how many students found their school's sports facilities have a potential safety hazard and how students felt about the division of responsibilities for sports injury incidents on campus in different situations, like PE lessons at school, after-school sports activities or competitions organized by the school, and sports activities conducted by students on campus during non-school hours or break time.

3.2 Literature research

This essay also used the literature research method, and has already collected information about laws and regulations regarding personal injuries in campus sports, some cases of personal injuries in campus sports, and analysis and judgment in different situations. Since the research is mainly focused on campus sports personal injury incidents in China and their legal treatment methods in China, the literatures cited in this paper are mainly from CNKI, published books and official websites of the Chinese government or laws. CNKI is one of the largest academic literature download platforms in China, and the articles on it are all audited, so they are professional and academic. At the same time, this paper also went to some law and government official websites to find the content of regulations because these websites are government official and have high authority.

4 Result and discussion

4.1 Results and analysis of questionnaire

To further improve the understanding of the current situation of campus sports personal injury in our country, I designed the questionnaire for campus sports personal injury. As the questionnaire is only issued to students from middle school to college, there is not necessarily relevant academic knowledge. To ensure that all students can clearly understand the goal of the questionnaire and effectively answer the questions, I added the definition of

personal injury in campus sports before the first question of the questionnaire.

The questionnaire shows that among 135 examples, personal campus sports injuries had happened in 43.31% schools. Most of the accidents occur in PE lessons and trainings organized by schools (both the proportions are 41.82%). More than half of the students (51.18%) had involved in a personal campus sports injuries. Among these students, 53.49% of them has broken their bones. The three main factors that these students think caused their injuries are equipments in schools has safety hazards (47.69%), personal reasons (41.54%) and the PE teacher was not responsible (38.46%). It's quite noticeable that about 85% of students think the influence of campus sports personal injuries is "larger" or "very large" if it happened to them. 51.97 percents of students think their school have major hidden dangers. Among all participants, to deal with campus sports personal injuries, the best ways should be "improve the legal system", "strengthen student's safety awareness" and "PE teachers do their duty". The results of the questionnaire show that quite a number of students have encountered various degrees of campus sports injury incidents, more than half of the students believe that once the campus sports personal injury incidents occur, they will have a great impact on themselves, and almost all students believe that the school has potential safety hazards. The severity of personal injury in campus sports in China is probably far greater than we think.

4.2 Laws to deal with personal injury in campus sports in China

According to Article 1199 of the Civil Code of the People's Republic of China, a school or other educational institution shall be liable for tort if a person without capacity for civil conduct (such as a kindergarten or lower grade primary school student) is injured during a physical education class. However, if the school can prove that it has fulfilled its education and management responsibilities, then the school shall not be liable for infringement.

If a person with limited capacity for civil conduct (senior primary school students and above) is injured in physical education class, according to Article 1200 of the Civil Code of the People's Republic of China, if the school or other educational institutions fail to fulfill their duties of education and management, the school shall bear tort liability. This means that if the school's negligence or misconduct in the process of education and management leads to the injury of students, the school will bear the corresponding legal responsibility.

In addition, according to Article 1201 of the Civil Code of the People's Republic of China, if a student is injured

during a physical education class by a third party other than the school or other educational institution, the third party shall bear the tort liability. In this case, if the school fails to fulfill its management responsibilities, it still needs to bear the corresponding supplementary responsibilities. After assuming the supplementary liability, the school shall have the right to recover from the third party who actually caused the damage.

In 2024, the Hongkou District People's Court of Shanghai, China concluded a case concerning the principle of self-risk, and finally ruled that the school and the students involved were not liable.

One afternoon, a middle school in Shanghai between the organization of a class in physical education football game, student Y and student H in the game for the football collision, student Y fell to the right elbow joint multiple fractures, right elbow joint dislocation, identified as a tenth level disability.

Y believes that H will shovel himself down during the game, resulting in his injury, and the school is not fully prepared before the competitive game, failing to fulfill the responsibility of education management, so Y sued to the Hongkou District People's Court. H and the school are required to compensate for their medical expenses, hospital food subsidies, transportation expenses, nursing expenses, nutrition costs, mental damage compensation, disability compensation, appraisal and other losses.

During the court hearing, the defendant of a Shanghai middle school argued that the ground for the football match was smooth, and student Y fell because of fighting for the football, which is an inevitable risk of the football game itself, and student Y is a middle school student, should have a certain awareness of the risk, and his choice to participate in the game means that he accepts the risk. In addition, the school informed the precautions and safety requirements before the game, rescued student Y after the incident and informed the parents in time. The school was not at fault and should not be liable for compensation. The Hongkou District People's Court held that the focus of the dispute in this case was whether a middle school in Shanghai should bear the liability for compensation and whether Xiao Hao and his guardian should bear the liability for infringement.

As for the first focus of the dispute, a Shanghai middle school organized a football game for students as a normal physical education class teaching, and informed the students of precautions and safety requirements before the game; Although the turf of the football field is worn to a certain extent, there is no obvious unevenness that is not suitable for sports activities. After the school health room made a preliminary treatment of Y's injury and timely notify parents, did not aggravate small Y's injury. Therefore,

the school has done its duty of education management in this teaching activity, and it is not at fault and should not be liable for compensation.

As for the second focus of controversy, Y, as a middle school student, should have a corresponding cognitive level for the sports risks existing in football matches. As a participant in the football game, H has no intention to infringe on Y's subjectively, and there is no foul or intentional collision in his behavior. There is no fault for Y's injury, so H and his guardian should not bear tort liability for this incident. H and his guardian voluntarily compensated Y 2000 yuan in accordance with the law, should be supported.

In summary, the Hongkou District People's Court finally rejected the lawsuit request of Y. After the verdict, student Y appealed, and the court of second instance rejected the appeal and upheld the original verdict.

However, there was no description of any insurance in this case, which means injured students need to bear almost all the medical expenses themselves, which reflects the lack of campus insurance in some campus sports personal injury incidents in China.

Liu.K.(2018) found in the reading and collation of literature that the compensation situation after sports injuries is not optimistic, the reasons are more diverse, first of all, the compensation mechanism of student sports is not perfect, the compensation way is single, basically by the accident responsible person to compensate." Secondly, it is related to the uncertainty when sports injury accidents occur. For primary and secondary school students, it is difficult to classify whether it is intentional behavior, and it is difficult to identify the responsible person for the accident. Therefore, when there are disputes between schools and parents of students, some parents will choose legal means to resolve them.

"Some scholars searched 192 sample cases across the country and came to different conclusions after analysis the judgment made by the principle of liability is also different. In the cases applicable to fault liability, the proportion of liability borne by the school is more balanced, and 20% of the cases are borne by the insurance company, and the actual utility of insurance is low in this process."

4.3 Measures to deal with personal injury in campus sports in other countries

It is particularly important to learn from the successful experience of other countries when discussing the current situation and future countermeasures of personal injury in campus sports in China. Taking Japan as an example, its countermeasures to personal injury in campus sports have remarkable characteristics. When dealing with such

accidents, the Japan Sports Promotion Center not only established a detailed compensation process, but also paid attention to the establishment of prevention mechanisms. Specifically, they integrate the content of life safety education into the physical education curriculum by developing scientific and detailed sports safety teaching norms to reduce the probability of accidents. In addition, Japan also advocates the concept of “happy sports” and “career sports”, so that sports activities are no longer simply the pursuit of competitive results, but pay attention to the overall development of students and the cultivation of lifelong sports habits. This change in philosophy has fundamentally reduced the accidental injury caused by excessive pursuit of results.

About the insurance of personal sports, The Turkish sports insurance system is characterized by the cooperation of insurance companies, the government and international organizations. Turkish sports insurance requires all sports risk items to be covered by mandatory risk insurance. (Yan, 2009)

In foreign countries, especially in developed countries such as Japan, the student insurance system is relatively perfect, which not only covers accidental injuries on campus, but also extends to various risks in off-campus activities and daily life. In addition, the design of insurance products in these countries is more flexible and can meet the individual needs of different students. In contrast, although the student insurance market in China has developed rapidly, there is still a great improvement in product innovation and customized services.

However, physical education in China is quite different from that in other countries, so it is necessary to have a further understanding of the specific situation in China to propose methods for personal injury in campus sports in China.

4.4 Different situation of campus physical education examination in China

Since the implementation of the physical education examination for junior middle school graduates in our country, physical education has gradually become a compulsory testing subject in the middle school entrance examination. This policy aims to change the phenomenon that students only attach importance to study and neglect physical exercise, and promote the all-round development of students. However, in practice, the policy also brings some potential risks. On the one hand, students may engage in compulsive training due to excessive pursuit of sports results, resulting in an increased risk of sports injuries; On the other hand, some schools and teachers may pay too much attention to the physical examination results, and neglect

the cultivation of students' interest in sports and lifelong sports habits.

Wang Dengfeng, director of the Department of Physical Education, Health and Art Education of the Ministry of Education, said: At present, all parts of the country have generally promoted the full coverage of the physical education high school exam, with physical education scores ranging from 30 to 100 points.

Xu (2022), In his doctoral thesis, he wrote, “According to the statistics of the sample cities, the average score of China's physical education high school examination is 51.01, the median is 50, and the proportion of cities with scores above 50 is 71%.”

In my province, Guangxi, China, for example, we need to choose three items in the middle school physical education examination from 50 meters, 800 meters or 100 meters, solid ball, embroidery throw, standing long jump and sit-up. The range for students to choose is actually very small, so all the students have to spend all the time preparing for the middle school physical education examination since they just entered junior high school. Students can not stimulate the love of sports, and there is no chance to master more sports skills, this is really the original intention of physical education?

To sum up, China has made some progress in dealing with personal injury in campus sports, but it is still necessary to learn from foreign advanced experience and further improve relevant systems and measures. Specifically, we should strengthen the integration of life safety education in physical education curriculum, and formulate more scientific and reasonable teaching norms of physical education safety. At the same time, improve the student insurance system, expand insurance coverage and improve the level of security; Finally, reform the physical examination system, pay attention to the students' overall development and the cultivation of lifelong sports habits. Through the implementation of these measures, it is expected to effectively reduce the incidence of personal injury in campus sports and promote the healthy growth of students.

5 Conclusion

5.1 Summary

Through this study, the probability of campus sports - related personal injuries and their negative impacts are not optimistic. China's current laws regarding campus sports - related personal injuries still have loopholes, such as the need for further clarification of the self - risk principle and the lack of a complete insurance system in the judicial process of handling such injuries.

5.2 possible solutions

Based on the analysis of questionnaire results, literature review, and the entire research, the following feasible measures for campus sports - related personal injuries are proposed.

Improve the campus sports insurance for students. Once campus insurance is widely promoted, it can effectively deal with potential risks and accidents in students' campus life, including sports activities, in a timely manner. Although this is not a fundamental solution to the problem, it can ensure that once a student has an accident, they can quickly receive a certain amount of compensation from the student insurance to cover medical expenses, ensuring that every student can receive timely treatment and will not delay treatment due to financial difficulties.

Improve the relevant legal provisions, especially the division of rights and responsibilities in different situations and the further clarification of the self - risk principle. For example, when students are injured during physical education classes, during free activities between classes, or during extracurricular sports competitions organized by the school, the responsibilities of the school, students, physical - education teachers, or potentially third parties should be clearly defined and differentiated rather than being uniformly regulated. "In current Chinese personal - injury judgments, schools tend to bear a greater responsibility... This will reduce the enthusiasm of PE teachers to choose less - risky sports." (Wang, W.N., Jiang, Y., 2022) A systematic law specifically targeting student campus safety may be the most effective way to address this issue, as China's current campus laws and regulations are not comprehensive enough.

Improve campus sports facilities, especially those related to frequently - tested items. This will reduce potential safety risks.

Enhance students' safety awareness through physical - education teachers' classroom teaching and regular lectures to reduce the occurrence rate of campus sports - related personal injuries.

The government may need to increase investment in education to alleviate the problems of uneven distribution of physical - education resources and low per - capita physical - education resources caused by the large population base.

Evaluation

To ensure that all participants could understand the purpose of this research, at the beginning of the questionnaire, the research content introduction and the estimated time required to complete the questionnaire were clearly stated. This was to prevent some participants from rushing through the questionnaire - filling process due to not

knowing how long it would take, which could have an adverse impact on the results. It was also indicated when and where it was recommended to complete the questionnaire to reduce the impact of environmental variables on all participants.

When conducting literature research, to ensure the timeliness and validity of the research materials, most of the materials about Chinese campus sports - related personal injuries were selected from the past five years. This could ensure that the social changes in China would not lead to different findings if the conclusions of these materials were applied to the present situation.

The conclusion of this research has strong social implications as it is based on the current reality in China. However, the results of the questionnaire may lack external validity because all the samples are Chinese students. They are not representative of the global population, and it is difficult to generalize the questionnaire results to the whole world.

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