

Research on the Safeguarding of Basic Cultural Rights of Farmers

TANG Ling^{[a].*}

^[a]Law School, Southwest University, Chongqing, China.
*Corresponding author.

Supported by Fundamental Research Funds for the Central Universities Projects “Contemporary Significance of the Natural Rights Theory in China” (SWU1409350); Collaborative Innovation Center of Coordination on Urban and Rural Public Culture Services In the Southwest University Key Project “The Comparative Study of Public Culture Legislation at Home and Abroad” (13WUGGF03).

Received 12 May 2014; accepted 16 July 2014
Published online 31 August 2014

Abstract

The rural-urban gap in terms of cultural development has restricted the establishment of a public cultural service system covering the whole society in China. The insufficient supply of public cultural service in rural areas and the insufficient realization of the basic cultural rights of farmers, the cause of which, if analyzed, is the lack of safeguard mechanism for basic cultural rights of farmers. Therefore, accelerating the legislation process of public culture and establishing a legal system for public culture has become the inevitable course to realize the complete coverage of public culture service system and safeguard basic cultural rights of farmers.

Key words: Farmer; Basic cultural rights ; Cultural legislation

Tang, L. (2014). Research on the Safeguarding of Basic Cultural Rights of Farmers. *Cross-Cultural Communication*, 10(5), 98-103. Available from: <http://www.cscanada.net/index.php/ccc/article/view/5365>
DOI: <http://dx.doi.org/10.3968/5365>

INTRODUCTION

For a long time, cultural construction in rural areas has been the focus of cultural construction in China. The rural-urban gap in terms of cultural development has not only restricted cultural construction, but also impeded

realization of the basic cultural rights of farmers. Although public culture service system in rural areas has already established in recent years, but the basic cultural rights of farmers are lack of safeguard mechanism. This requires by way of public cultural legislation to safeguard farmers' basic cultural rights.

1. A MODEST OPINION ON THE CONNOTATION OF BASIC CULTURAL RIGHTS

1.1 Interpretation of Basic Cultural Rights

Cultural rights, together with political, economic and social rights, are the basic legal rights that must be enjoyed by all the citizens. The basic legal rights to be enjoyed by a citizen, which, as the embodiment of human rights, should be specified and duly protected by the *Constitution*. *Weimar Constitution*, enacted in 1919, was the first constitution, in which, cultural rights of a citizen are covered. In Article 118 of that Constitution, it stipulates that German people shall have the right to express their opinions in languages, words, printings, books or any other method, as long as it is within the limits of the law, and that right shall not be deprived due to any labor or employment relation.

In terms of the international law, in Clause 1 of Article 15 of the *Covenant on Economic, Social and Cultural Rights*, it defines connotation of cultural rights as 3 aspects, including: the right to participate in culture life, the right to enjoy the benefits brought by scientific progress and its applications, and the right to enjoy spiritual and material benefits from his/her works. This stipulation serves not only as the origin of cultural rights in general international law, but also as its standard definition having more approvals from the scholars.

In our country, cultural rights of a citizen are covered in the Constitution, on the one hand, the Constitution

stipulates that the country shall develop cultural undertakings and protect citizens' cultural rights. It stipulates in Article 22 of the Constitution that the country shall develop the literature and arts business, the news, broadcasting and television business, publishing and releasing business, library, museum and cultural center, as well as other cultural undertakings and carry out the mass cultural activities to serve the people and socialism. On the other hand, the Constitution has specified the cultural civil rights in details by the given examples. For example, in article 47 of the constitution, it stipulates that the citizens of the People's Republic of China shall have the freedom to carry out scientific research, literary and artistic creation and other cultural activities.

1.2 Powers and Functions of the Basic Cultural Rights

As for the specific powers and functions of the basic cultural rights of a citizen, there are various conclusions made by the scholars and there is no unified standard for this. Of course, the fundamental rights of citizens belong to the historical category, meaning that along with the constant deepening of theoretical research and moving forward with practice. Powers and functions of the basic cultural rights of citizens will be developed continuously. The writer holds that in current stage, basic cultural rights of citizens shall include at least the equal right of participation in cultural events, free option for cultural forms, right to share cultural achievements and the right to develop culture.

1.2.1 Equal Right of Participation in Cultural Events

Equal right of participation in cultural events is the reflection of subjectivity of cultural right, and citizens are entitled with the right to participate in cultural events. Concerning the equal right of participation in cultural events, there are three aspects to be made clear, firstly, the universality of participation, which means that every citizen can become the subject of a culture event, which can be in the role of either culture creator or the sharer of culture achievements. Secondly, the equality for participation, which means that every citizen, regardless of the family background, identities, rich or poor and high or low level of education, shall have the equal social status and shall participate in culture activities in an equal manner. Cultural life is no longer a privilege of elites, but an indispensable element for each one to acquire all-round development and to maintain dignity. Therefore, in any cultural events, the privileges should be broken through and discrimination should not be allowed. Thirdly, complete participation, in another word, the right to take a full part in cultural life, the passive participation in a cultural activity held by other people is not a real participation, or at least not a participation in the full sense.

1.2.2 Free Option for Culture Forms

Two aspects of content are included in the free option for culture forms. On the one hand, it is the free option for a

citizen to participate or not to participate in any culture event. On the other hand, it is also the free option for him or her to participate in this or that cultural events. Free option means no intervention from government, social organizations or any other person, and a citizen shall be able to determine the form and content of a culture event in which he or she participates on his or her own. The free option for culture forms not only protects the freedom of choice for any citizen, but equally, it is conducive to the diversified development of culture, thus to promote the great cultural development and prosperity.

1.2.3 Right to Develop Culture and to Share Culture Achievements

The right to share culture achievement is embodied in the topic for realizing cultural rights of citizens, and also a key element of the basic cultural rights of citizens. The cultural rights of citizens, after all, are boiled down to the provision and acceptance of specific culture content. Today, the momentum for the development of cultural undertakings and cultural industries are strong and rapid with gradual improvement on the quality of culture products, as well as tremendous increase of the quantity of the same, making it possible for citizens to enjoy the achievements of great cultural development. The right to develop culture can both be a collective and an individual right, which, as a collective right, it means that the country and its people shall share the benefits brought by the cultural develop both at home and abroad, and as an individual right, it means the cultural achievements and gains of an individual citizen are protected by the law.

2. PROTECTION OF THE BASIC CULTURAL RIGHTS OF FARMERS

2.1 Imbalanced Development of Public Culture Service Between Urban and Rural Areas

The safeguarding of the basic cultural rights of farmers is mainly reflected in the construction of public culture service system. The basic cultural rights of farmers can be protected effectively only through the construction of such system. The imbalanced development of urban and city areas, as one of the long existing economic problems in our country, is also reflected in the development of public culture service.

2.1.1 Imbalanced Investment of Culture Funds

Though the investment to culture by governments of all levels is increased over the years with constant improvement on investment structure, the total funds invested remain insufficient to imbalanced investment structure. According to the information released by the Ministry of Culture, as of the year 2010, the total investment in cultural undertakings is 32.306 billion yuan, wherein, the 11.641 billion yuan is invested to the rural area, accounting only 36.0% of the total investment in

culture undertakings. If in terms of per capita, in 2009, the culture undertaking investment per capita across the country is 24.11 yuan, 33.27 yuan of that in the city, but just 12.11 yuan for that in the rural area.

2.1.2 Imbalanced Cultural Infrastructure

Since implementation of the 1th five-year plan, the country and the government had increased the investment in culture undertakings, particularly, through the construction of county-level public library and culture center, and major projects including village or town-level comprehensive culture station, etc, it effectively drives the establishment of grass-root public culture facility network. By the end of 2012, our country has established 34,101 villages or town-level comprehensive culture stations. However, we must also realize that the coverage of certain village or town-level comprehensive station is insufficient with inadequate area. Moreover, the nation wide coverage rate for village-level cultural activity room reaches only 65.3%, from which, we can see that there is still a large gap between cultural infrastructure of the urban and rural areas, which are not yet in perfect condition.

2.1.3 Imbalanced Level for Culture Teams

Gaps can be found in either quality or quantity of the cultural cadres between rural and urban areas. In terms of quantity, the culture stations in rural villages, towns and cities are less attractive, added by the low treatment and less attention from leaders, and the loss, withdraw and borrow from cultural cadres is rather serious. In terms of quality, there is no complete training and learning mechanism in place for the rural culture team. The quality of cultural team is yet to be improved. Besides, due to the lacking of organization and guidance from cultural cadres, amateur cultural talents from rural area, as the “natural rural artist” and “most intimate contacts for farmers”, are hard to act on its own.

2.2 The Mismatch Between the Supply of Public Culture and the Cultural Needs From Farmers

The mismatch between the supply of public culture and the cultural needs from farmers has made it hard to safeguard the rights of farmers to participate in any cultural event and the free option for cultural forms. Over a long period of time, the country's supply of public cultural products adheres to a policy that it outputs what it takes, which may result that the public cultural products it outputs may not fit the needs of its citizens and hence may not be accepted by them. Likewise, the public cultural products it outputs may fit the urban citizens and be accepted by urban citizens, but not by farmers since they are unfit to rural area.

After carrying out a field investigation in Tongjiayi Village, Tongjiayi Town, Beibei District, Chongqing City, the writer finds that nobody shows any interest in the brand new books set out in the farmer's book store or in the library of cultural station in the village, and thick dust can be found piling up on top of some books.

A presumption for this is that the farmers may not have the high interest in reading books, and the result is fewer visitors come to the farmer's book store or the library in cultural station of the village. However, after an informal discussion with villagers and personal visit to some individuals, the writer starts to understand that the reason is not that the farmers do not want to read books, rather, the establishment of farmer's book store is what they have been longing for. However, since the opening up of farmer's book store, it is hard for them to find books they show interest, such as the historical novels, agricultural technology popularization book, etc., instead, what is being displayed on the shelves are books on politics, philosophy or even on physics and chemistry. Thus it can be seen that in rural areas, the way of supply of cultural products has resulted in less attraction for the public cultural products, meaning that it fails to meet the culture demand from farmers, and has deprived the free option from farmers indirectly, causing waste of public resources.

2.3 Lack of Complete and Long Term Operation Mechanism for Public Cultural Service in Rural Area

Multiple Management for public cultural service and lack of clear-cut division of responsibilities and coordination mechanism between each public cultural institutions, most often cause the weakening of joint efforts spent in culture undertakings in rural areas, which will affect the integration of rural cultural resources. The incomplete cultural system results in very few manning and financial quotas in many villages and towns. The limited personnel are then assigned to multiple positions doing full time jobs under exclusive titles. It is very common to see a lot of full time cultural cadres serving concurrently under different job titles in rural areas. The writer has found during investigation in Linwan village, Shuangjiang Town, Tongnan County, Chongqing City that the family-planning officer serves concurrently as the administrator of cultural room in that village, in the meantime, this family-planning officer even has to fulfill the fire prevention and security responsibilities. Under such condition, such personnel can neither be professional nor being focused, thus it's hard to hold cultural events, to bring the cultural benefits into full play or to safeguard the cultural rights of farmers.

It lacks of long term mechanism in the construction and management of public cultural service. During research, the writer has found that initial construction of infrastructure in Linwan Village is basically complete, and the allocation of funds and equipments by both the central or municipal governments have all been implemented, but it lacks of a complete set of management and operation mechanism once the funds and equipments are in place. For example, once the books and equipments allocated to the farmer's book store were in place, still there were no special personnel appointed for the management and maintenance of the same, which resulted in low operation

efficiency and hard to act on its own. For example, the village installed 22 loudspeakers half a year ago. So far, only 4 sets of them are still in normal function, thus it can be concluded that even a good infrastructure can not always act effectively if it is under insufficient management and maintenance mechanism.

3. LEGISLATIVE MEASURES TO SAFEGUARD BASIC CULTURAL RIGHTS OF FARMERS

3.1 Rights of Farmers Through Legislation

The provision of equal public cultural service to farmers and safeguarding basic cultural rights is one of the basic duties for a law based government. As one of the basic rights of citizens, the basic cultural rights of farmers have been specified explicitly in and protected by the Constitution. The safeguarding of basic cultural rights of farmers should be stipulated explicitly by a concrete law, in which the scope of duties for governments and the procedure to be followed when exerting such duties should also be covered. The government shall perform its duties in a proactive manner and shall provide adequate protection to basic cultural rights of farmers, otherwise, it will be held liable and punished by the law. However, it is not hard for us to realize that so far the basic cultural rights of citizens, including farmers, as well as the definition of corresponding duties of the government are still being reflected in policy only, not yet in any legislation. There is no doubt that policy is better than law in terms of flexibility and adaptability. However, just due to its flexibility, the policy itself also does not have the stability and enforceability of a law. Therefore, only through the regulating of public cultural services by laws, can be the cultural rights of citizens are better protected.

The party and the government have both realized the necessity for cultural legislation. In the report of the Sixteenth National Congress of the Communist Party of China, it put forward clearly a goal and plan characterized by promoting the establishment of legal system on culture and enhancing the macro-management. Moreover, in *Several Opinions Concerning the Deepening of Reform on Culture System* issued by the Central Committee of the Communist Party of China and the State Council in January of 2006, it further stressed that promotion of cultural legislation, gradual conversion of the Party's cultural policy into laws and regulations through legal procedure, and the tasks and requirements involved in establishing a complete cultural laws and regulations. In addition to that, the Ministry of Culture has included the *Public Culture Service Act* into the 12th five-year plan, under which, we should make the policies or those measures taken with better effect in the practice of public cultural service to become a law through legislation, and

rely on the stability and enforceability of law to safeguard the basic cultural right of citizens.

3.2 The Establishment of Legal System for Public Cultural Service

Laws are always created for their applications. The creation of a legal norm, most often, turns out to be the application of its superior norm that regulates the creation of such norm. The legislative process of general laws is about the application of an even higher norm—the Constitution. The legislative process for public culture also refers to the application of Constitution. The Constitution, as the fundamental law of the country, is the essential basis for the legislation on public culture. The stipulation on cultural rights of citizens as contained in the Constitution is considered as the direct theoretic resource and basic norm for the legislation on public culture, the logical starting point of which shall be the safeguarding of basic cultural rights of citizens and such value orientation shall be embodied in the process of legislation. As a necessary social condition for the development, prosperity and innovation of culture, cultural legislation is both the basic institutional guarantee for cultural inheritance and cultural exchange and the indispensable important part of the system of socialist laws. Based on the constitution, taking the safeguarding of the basic cultural rights of citizens as the value orientation and in view of the country's actual situation, this paper divides the legal system of public cultural service in China into three sections:

3.2.1 Constitution

First of all, the stipulation of basic cultural rights of citizens itself as set forth in the constitution is the important legal origin in the sphere of public culture. Secondly, the constitution is also the basis for the making of other laws. As the fundamental law of the country, constitution is of the highest legal status in the legal system for public culture, where it stipulates the fundamental cultural system of the nation and basic cultural rights of citizens. Any and all the making of laws or regulations with respect to public cultural shall be based on the stipulations set forth in constitution and shall never be in contradiction with it.

3.2.2 Basic Cultural Law

Basic cultural law, as the fundamental law in sphere of public cultural service, shall provide the guiding ideology and basic principle for the establishment of public cultural service system. It has specified the basic cultural rights of citizens and safeguard obligation of the country in accordance with the constitution, including the duly implementation of the same. The basic cultural law shall not only include the basic cultural law of the state-level, i.e. the *Public Cultural Service Act*, included into the legislation in 12th five-year plan, but also include basic cultural law in the local. At present, some provinces and cities have already carried out the practice on legislation

of public cultural service. I.e. the Standing Committee of Guangdong Provincial People's Congress has approved *Guangdong Public Culture Promotion Rules* in September 29, 2011, i.e. the government of Jiangsu Province has promulgated the *Management Measures for Public Culture Service in Rural Area of Jiangsu Province* in January 4, 2012, the management measures exclusively used for regulating public cultural service in rural area.

3.2.3 Special Legislation on Culture

Special law on culture refers to the preparation of a special law on public culture based on the various subject or type of the public cultural service. The preparation of a special law on public culture shall be based on the basic public cultural law, which is the specialization and embodiment of basic public cultural law. The special law on public culture can be further divided into the followings: Firstly, the public cultural undertakings law, i.e. public library law, public cultural center law, etc.; secondly, laws on broadcasting, film, television and network, i.e. radio and television act, films and TV episodes law, network information management law, etc.; thirdly, the news and publication laws, i.e. press law, publication law, advertisement law, copyright law, etc.; fourthly, the sports and arts law, i.e. mass sports law, culture and arts law, etc.; Fifthly, laws on the protection of natural heritage and intangible cultural heritage, i.e. natural heritage protection law, intangible cultural heritage, etc..

3.3 Protection of Cultural Heritage of Farmers

3.3.1 Narrow Down the Gap Between Urban and Rural Areas and Realize the Equalization of Public Cultural Service System

First of all, the principal element, resulting in the imbalanced public cultural service system is the imbalanced financial investment. Therefore financial authorities at all levels should increase their input of funds into public cultural service in rural areas, and gradually narrow down the gap in terms of public cultural investment between urban and rural areas so as to realize the equalization of financial investment. Secondly, we have to speed up the infrastructure construction for public culture in rural areas, expand the coverage of public cultural service in rural areas and improve the supply for public cultural service with the aim to safeguard farmers' cultural needs. Furthermore, we have to develop and use internet, establish and improve the public cultural networks in rural areas, advance the sharing project for cultural information resources, establish the cultural center, library, place of cultural activities in villages and towns, set up a new mechanism that can share with schools, scientific research institutions and museums of all levels, and advance the facility construction for cultural networks in rural areas. All in all, to strengthen the building of a talent team in rural areas, firstly, we have to establish a sound education and training mechanism for public cultural team in rural areas, do a good job for

the training of public cultural team in rural areas, and constantly improve the overall quality and service ability for cultural team in rural areas; Secondly, we have to establish the professional qualification and treatment guarantee for public cultural worker in all rural areas, implement the current manning quotas for special cadre and treatment policy for cultural workers in rural and cities and increase on the basis of maintaining current cultural team; Thirdly, we should introduce the incentive and reward mechanism, excavate the traditional folk culture and arts and give them the respect and protection, encourage the folk artisan to lead up the rural cultural life, exert their leading and radiation effect, enlarge the scale of rural cultural life and gradually extend the farmer's participation of rural cultural life.

3.3.2 Complete the Farmer's Participation Mechanism and Meet the Cultural Demand From Farmers

Farmer's participation in public cultural service shall include two aspects: firstly, it is about a citizen's complete involvement in the legislation for public culture, in the provision of cultural service and in the process of supervising, so that the cultural appeal from farmers may have been expressed completely and that the farmers' wide and equal right to participation can be realized; secondly, farmers shall actively engage in the creation of public cultural achievements, and fully participate in the running of public cultural service system, thus to fully realize the farmer's right to create cultural achievements and to participate in cultural activities. The realization of farmers' cultural participation is an important channel for safeguarding farmers' cultural rights. At present, a number of relevant systems that are widely practiced at abroad, such as the hearing system and publicity system, are worth for our reference. I.e. in Hong Kong of China, it is for the Leisure and Cultural Services Department to collect public opinion on public cultural service, thus they have particularly developed a public opinion registration system. Through making comprehensive analysis on data information, they manage to compile a regular statistic sheet, on which the public opinions are sorted out according to different categories, nature, object and times, for the reference of decision-makers for public cultural service.

3.3.3 Complete the Operation Mechanism for Public Culture and Define Legal Liabilities

To establish a long term mechanism for rural public cultural service, it requires us to introduce an innovative management mode to increase efficiency, and to specify the goals and tasks involved in establishing rural public cultural service system in consideration of the actual situations in the local area, so as to set quantitative criteria and put forward the short, medium to long term plan and the specific task targets (to be included as the criteria of assessment), which will be used to guide the establishment of rural public cultural service and to make

a sound organization system and operation mechanism for public cultural institutions, thus to improve service quality. We must advance the mechanism reform for the main infrastructure of rural public culture with the aim to improve their service efficiency. Also we should prepare the job specifications for positions within cultural institutions of village and town level so that we can have clear goals and traceable responsibilities. We should establish and improve the performance appraisal, motivation and restriction mechanism within the rural cultural institution, establish a long term mechanism for the construction of rural culture, prepare a medium to long term plan for the implementation of cultural infrastructure construction, include the building of rural public culture as an important matter on the agenda and also include the target management responsibility system into relevant evaluation system for building up a culturally advance village or civilized village.

In the legislative process for public culture, in order to have a clear mind about the functions and legal liabilities of the subject of public culture, firstly, we have to define the function for each subject of public cultural service during legislation so that we can know for sure what kind of public cultural service is to be provided by a specific subject, and how shall such service be provided so as to avoid the fight over rights or buck-passing between departments. Secondly, we also have to define the obligations for the subjects of public cultural service. In case such subject does not or being slack to perform its obligation, it should be held legally liable.

In the end, in terms of legal liability, for one thing, we have to specify the subject we hold liable; for another thing, we also have to specify the procedure we adopt to account its liability, thus ensuring all violators are duly prosecuted.

CONCLUSION

In the report of the Sixteenth National Congress of the Communist Party of China, it put forward clearly a goal and plan characterized by promoting the establishment of legal system on culture and enhancing the macro-management. We should make the policies or those measures taken with better effect in the practice of public cultural service to become a law through legislation, and only rely on the stability and enforceability of law, can we safeguard the basic cultural right of famers.

REFERENCES

- Gong, C. (2010). Research of the rural public culture service system construction. *Journal of Shandong Agricultural University (Social Science Edition)*, (2).
- Han, F. (2013). Research of citizen culture rights and culture law system construction. *Qilu Journal*, (4).
- Wan, E., & Mao, J. (2009). Discussion on the connotation of cultural rights. *Law Science Magazine*, (8).
- Wang, L. (2009). Research of significance of basic cultural rights of citizens. *Study & Exploration*, (6).
- Xu, X. (1991). Analysis of basic rights. *China Legal Science*, (1).