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公民道德教育 与 公民法制教育



徐继超 著

中国社会出版社

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前 言

道德与法律，“德治”与“法治”是规范人类行为，调节社会相互关系的基本方式。道德的感召与法律的威慑，是引导人们背弃黑暗，走向光明的两座灯塔。

道德与法律在起源、价值、规范及维护社会秩序方面的本质联系，是公民道德教育与法制教育相结合的物质前提与思想基础。道德与法律，“德治”与“法治”具有本质联系，各有所长，同时又各自具有功能上的局限，只有两者结合起来，相互补充，相互协调才能发挥最大的功能。两者发挥其最大价值与功能必须依靠文化教育支持；必须依靠现代社会主体——公民对道德与法律的需要与价值认同。人们只有认识到道德与法律的价值，并且把讲道德、守法律作为自己的生存方式时，道德与法律才能发挥出对人对社会的价值与作用。广大公民道德素质与法律素质的提高，不能自发做到。它需要文化与教育作为基础。教育是一切文化与文明的基础。教育是培养人，传承人类文明的社会实践活动。公民道德教育与法制教育的结合是实现公民道德自觉与自愿守法的前提，也是实现“依法治国”与“以德治国”相结合的治国方略的需要。

公民道德教育与法制教育结合的主体基础是公民。现代社会的人，通过法律对其公民身份进行了确认。公民既是法律意义上的人，也是道德意义上的人，同时还是社会与“政治的动物”。也就是说在市场经济条件下，道德、法律不仅是规范，而且也是现代社会发展与人的发展的需要，有道德与守法律成了现代人的生存发展方式。“德治”与“法治”不仅仅是对社会对人的治理与惩处，而且还具有保障市场经济和社会秩序正常发展，引导人们提升主体



意识,维护市场主体利益的功能。故此,现代意义上的公民必须接受公民道德教育与法制教育,公民道德教育与法制教育的结合是现代公民自身发展的需要。现代社会由于科学技术的发展,导致“知识中心主义”;由于市场经济发展的负效应,导致工具理性张扬,价值理性迷失。公民道德教育与法制教育的结合是培养现代化公民人文精神的需要;是促进公民全面发展的需要;是促进公民个体社会化的需要。总之,是建立现代公民社会的需要。

公民道德教育与法制教育的并重、结合是实施“依法治国”与“以德治国”相结合的治国方略对公民教育提出的时代要求。应该说任何社会都有道德与法律。传统中国社会由于经济基础是自然经济,文化基础是宗法与人伦社会,所以是“德主法辅”的社会治理模式。现代中国社会由于改革开放,建设社会主义市场经济,已经走上了经济全球化(Globalization)的发展轨道。社会的开放性、复杂性、综合性,必须实行“依法治国”与“以德治国”并重与结合的治国方略。在2001年1月10日全国宣传部长会议上,江泽民同志指出:“对一个国家的治理来说,法治与德治,从来都是相辅相成、相互促进的。二者缺一不可,也不可偏废。法治属于政治建设,属于政治文明,德治属于思想建设,属于精神文明。二者范畴不同,但其地位和功能都是非常重要的。我们要把法制建设与道德建设紧密结合起来,把依法治国与以德治国紧密结合起来”。“法治”与“德治”的同等重要,不可偏废,决定了公民道德教育与法制教育的同等重要,不可偏废,不能相互替代,同时也决定了公民道德教育与法制教育必须并重与结合。

中国与西方,由于文化回异,道德与法律有着各自的发展历程与文化渊源,因而道德教育与法制教育亦各具特点。在经济全球化的现时代,各民族文化相互交融,取长补短。通过对中国与西方道德教育与法制教育的历史考察,能为我国现代社会开展公民教育提供以下参照与借鉴:公民道德教育与法制教育应该并重、结



合;通过两种教育的结合实现公民道德信仰与法律信仰的互通;大力开展社会本位的公民道德教育与权利本位的公民法制教育。

诚实守信是公民道德教育与法制教育结合的思想与价值观基础。诚信不仅是现代社会对公民提出的道德要求,也是市场经济条件下法律对公民提出的要求。随着自然经济、计划经济的“忠诚”伦理道德向市场经济“陌生人”的“诚信”伦理道德的转换,社会出现“诚信”道德状况与社会经济发展不同步的现象。解决这一问题,一方面要靠公民道德教育,同时也要靠公民法制教育——养成公民诚信法律意识与信仰。诚信既是道德对公民的要求,又是法律对公民的呼唤。将诚信缺失仅归究于道德的原因是不全面的。仅仅想依靠法律手段解决社会失信问题也是困难的。将公民道德教育与法制教育结合起来是解决社会“诚信”缺失的重要途径。

中国加入 WTO,走上经济全球化的道路,使我国建立现代民主政治的公民社会及培养合格公民面临挑战。公民道德教育与法制教育的结合不仅是历史发展的逻辑,同时也是现实社会发展的需要。当前,实现公民道德教育与法制教育结合,要注意处理好:价值与事实;中心与边缘;历史与现实三大关系。两种教育结合能实现两种教育的功能互补:把自律与他律结合起来;把惩罚与激励结合起来;把普遍性要求与层次性要求结合起来;把现实性要求与理想性要求结合起来。公民道德教育与法制教育结合的方法:在制度建设与完善中实现两种教育的结合;在社会生活实践中实现两种教育的结合;在管理中实现两种教育的结合;以边缘渗透方式实现两种教育的结合。

社会发展与公民发展互为前提,互为基础;社会发展要求公民主体是守道德与自愿守法的统一;实现公民道德教育与法制教育的并重、结合的立足点是培养合格公民,促进社会发展。



Preface

Morality and Law, “ruling by moral” or “ruling by law” are both basic tools to standardize people’s behavior and regulate social relations. The call of morality and the power of law are just like two torches to lead people away from darkness into brightness.

The intrinsic relationship of origin, value, standardization and sustaining social order in both morality and law are the material premise and ideological foundation of both civil moral education and law education. Morality and Law, “ruling by moral” and “ruling by law” are intrinsically related, each with certain advantage, but at the same time each with functional limitations. Only when they are integrated and supplemented by each other, their functions can be maximized. To realize this maximization and the full potential of their functions, education is needed. We must rely on the contemporary social body — — — the need and common understanding of value of the citizen towards morality and law. Only when people have realized the value of morality and law, then can they abide by the morality and law and make them as a way of life, then both morality and law can be useful to people and society. It will come naturally for the citizen to raise their quality of morality and law. It needs education as its foundation. Education is the foundation for all cultures and civilization. Education is a kind of social practice to raise the quality of people and the driving civilization. The integration of civil moral education and law education is the premise of the realization of civil moral self — awakening and voluntary obedience of the law; it is also the requirement of state — government strategy to realize “ruling the



country by law” and “ruling the country by moral”.

The main body of the civil moral education and law education is citizen. The modern social man, by the means of using law, identifies himself. Citizen is a man in the sense of law, and in the sense of morality and also in the sense of society and politics. That is to say, under the market economy, morality and law are not only standards, but also the needs of social development and the development of man. Being moral and abiding by law have to become the way of life for modern man. “Ruling by moral” and “ruling by law” are not only the governing way and punishment of society and man, but also the function of maintaining market economy, leading people to such a level in which they feel they are the owners, thus the interests of market body are able to sustain. So in the modern sense, citizen should receive both civil moral education and law education, the integration of civil moral education and law education are the needs of the self development of modern social citizen. Modern society leading to “knowledge - centerism” is due to the development of science and technology; the negative effect of the market economy leads to emulation of instrumental rationality and the loss of value rationality. The integration of civil moral education and law education is the need of raising modern citizen, the need to speed up social development and the need of individualization of citizen. All in one, it is the need to build a modern society for modern citizen.

The integration and focus on both civil moral education and law education is for the benefit of “ruling the state by morality” and “ruling the state by law” and it is the requirement of this epoch. The above strategy of ruling the state is also the theoretical guidance for the co - focus and integration. We should say, morality and law exist



in any society. In the traditional Chinese society, the economic foundation is natural economy, the culture foundation is religion and ethics; so the ruling model is "Morality first, law second". In modern China, we are now opening our door, we are in the process of building socialist market economy, we are on the track of globalization. The openness, complexity, comprehensiveness of today's society must lead to the strategy of "co-emphasis of ruling by the morality and ruling by the law." On the 10th of Jan. 2001, Jiang Zemin pointed out: "As to the government of a country, ruling by the law and ruling by the morality are both complimentary from the very beginning, they reinforce each other. No one can separate from the other. Ruling by the law belongs to politics building and politics civilization; ruling by the morality belongs to the ideology building and spiritual civilization. They are in different category, but both of them are very important. We must strongly integrate both politics building and moral building and strongly integrate ruling by the law and ruling by the morality". "Ruling by the law" and "ruling by the morality" are equally important, they can't be without the other, which dictates the equal importance of moral education and law education. They are not complimentary. At the same time they reveal that civil moral education and law education must be integrated and must be paid the equal great attention.

In both China and western countries, due to the difference of culture, both morality and law have their respective development and cultural origin, so moral education and law education have their different characteristics. In today's globalization, each nation's culture is merging, each is learning from others. Through a historical study on the moral and law education in both China and western countries,



the author finds that they can be taken as good reference for our Chinese civil education. That is: Civil moral education and law education must be equally important and must be integrated; Through the integration of both education, we can make civil moral faith and law faith interchangeable; we must initiate the civil moral education as social positioning and civil law education as power positioning.

Good faith is the ideology of integration of civil moral education and the value foundation of that integration. Good faith is not only the moral requirement imposed by modern society to civilian, but also the requirement imposed by the law to civilian in the market economy. As the “loyalty” ethics and morality of natural economy, planning economy is shifting to the “unfamiliar” and “faithful” ethics and morality of market economy, we find that the moral situation and social development is not synchronized. To solve this problem, we must rely on the civil moral education on one hand and civil law education on the other hand — — — to raise the sense of civilian to trust in law and good faith. Good faith is the requirement of civilian from morality and it’s also the call of the civilian from law. If we blame the loss of good faith for the loss of morality, it’s not a complete statement. If we try to solve the social problem of loss of faith through law, it’s also very difficult. Only when we integrate civil moral education with law education can it be the important method to solve the problem of loss of good faith.

As China has entered WTO and is on the track of economic globalization, we are facing a great challenge in building a modern democratic and political civil society and training qualified civilian in China. The integration of civil moral education and law education is not only the logic of historic development, but also the requirement of



the practical social development. Currently, we should pay attention to the following points in our realization of integration of civil moral education and law education: The relationship of three pairs, e. g. value and fact, center and margin, history and reality. The integration of two education can be complimentary: self-regulatory is combined with the other-regulatory; punishment is combined with motivation, common requirement is combined with different specific requirement, realistic requirement is combined with ideal requirement. The method to integrate civil moral education and law education are: To realize the integration of two education during the process of system establishment and perfection; during practical social activities; in the actual management practices; in the method of marginalization.

Social development and civil development is premise to each other and both can be each other's foundation; social development requires civilian to be with moral and abiding the law; the standing point of co-emphasis and integration of civil moral education and law education is for the purpose of raising qualified civilian and promoting social development.

Key words: morality, law, civil education, civil moral education, civil law education.



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