

Non-government/private Education in China

During last decade, non-government/private education (NGPE) sector in china has been growing fast; great change has taken place not only in the quantity and scale, but also in quality of them. As a result, NGPE plays a more important role and has greater effect on the whole national education system.

I. General Description and Development Trend

1. The scale of non-government/private education

From 1997 to 2003, the scale of NGPE has been keeping on extending in china. Total non-government/private schools (NGPS) of all levels and types have expanded from 29964 to 70256, rising up 134%; for the number of students, from 3.8 million to 14.16 million, and 273%. The proportion of schools and enrolments of NGPS occupied in the whole education system at all school types has grown in varying degrees, especially in non-compulsory education stages. In 2003, non-government/private kindergartens rated by 47.7% and 24%; for vocational secondary schools, 11.1% and 6.7%; for regular colleges and universities, 11.1% and 7.3%(see table1, table2 and table3).

Table1. Scale and Proportion of Non-government/private Education (1997, 2003)

	Kindergarten		Primary School		General Secondary School		Vocational Secondary School	
	1997	2003	1997	2003	1997	2003	1997	2003
NGPS	24643	55536	1806	5676	1702	6330	689	1435
% of total schools (%)	13.5	47.7	0.3	1.3	2.2	8.0	6.9	11.1
Enrollments (in 10000)	135	480	52	275	53	398	18	82
% of total Students(%)	5.4	24.0	0.4	2.4	0.9	4.6	3.5	6.7

Source: *Educational Statistics Yearbook of China in 1997, Educational Statistics Report*, Volume 1, 2004 (Volume 27 in general), by the Department of Planning of the Ministry of Education, P.R.C.,..

Table 2 Non-government/private Higher Educational Institutions and

Enrollments (1997, 2003)

	Total		Regular College and University		Higher Education. Diploma Exam. Institution		Adult Institution		Others	
	1997	2003	1997	2003	1997	2003	1997	2003	1997	2003
Institutions	1115	1279	21	173	157	384	-	2	938	720
% of Total	-	-	2.0	11.1	-	-	-	0.4	-	-
Enrollments (in 10000)	120.4	181.6	1.4	81.0	9.4	22.1	-	0.2	109.6	100.4
% of Total	-	-	0.4	7.3	-	-	-	-	-	-

Source: *Educational Statistics Yearbook of China in 1997, Educational Statistics Report*, Volume 1, 2004 (Volume 27 in general), by the Department of Planning of the Ministry of Education, P.R.C.,.

Table 3 Non-government/private vocational training institutions (2003)

	Institutions	Trainee (persons)
Total	10631	3938147
% of total vocational training institutions (%)	4.6	5.4

Note: The institutions that registered in labor and social ensuring agencies were not included in the data.

Source: *Educational Statistics Report*, Volume 1, 2004 (Volume 27 in general), by the Department of Planning of the Ministry of Education, P.R.C.,

2. Regional distribution features of non-government/private schools

In China, most NGPS are located in cities, counties and towns (see Table4). From primary school to senior secondary school, the higher school level, the proportion of private education in rural areas is lower. In rural areas, NGPE in compulsory schooling stage is at a fairly higher proportion than non-compulsory schooling stage.

Table4 Distribution of PNGS in different areas (2002,%)

	Schools			Students		
	Cities	County & Towns	Rural Areas	Cities	County & Towns	Rural Areas
Kindergarten	28.8	39.1	32.1	34.4	39.3	26.3
Primary School	27.9	19.3	52.8	44.3	21.5	34.2
Jun. Secondary School	42.6	36.0	21.5	42.5	40.1	17.4
Sen. Secondary School	58.3	34.1	7.6	51.9	41.8	6.3
Vocational Sec. School	74.3	19.5	6.2	72.4	22.4	5.1

Source: *Essential Statistics of Education in China, 2002*

Table5. Distribution of enrolments of PNGS in different areas (1997, 2002,%)

	Kindergarten	Primary School	General Sec. School	Vocational Sec. School	Higher Edu. Institutions
Total	100.0	100.0	100.0	100.0	100.0
Eastern Provinces	53.4	49.1	48.1	40.6	60.2
Central Provinces	21.7	22.0	35.0	35.8	25.1
Western Provinces	24.9	29.0	17.0	23.6	14.7
The top six provinces in scale of enrolments	Zhejiang, Guangdong, Sichuan, Jiangsu, Jiangxi, Liaoning	Guangdong, Sichuan, Henan, Hebei, Guangxi, Guizhou	Shandong, Hebei, Jiangsu, Henan, Zhejiang, Hunan	Hunan, Zgejiang, Jiangxi, Anhui, Guangdong, shandong	Beijing, Shanghai, Shaanxi, Shandong, Hebei, Zhejiang
% of the top six provinces to total	55.7	56.3	46.6	54.4	55.8

Source: *Educational Statistics Yearbook of China in 1997, Essential Statistics of Education in China, 2002.*

However the development of NGPE between provinces was unbalanced. Firstly, students of NGPS are mainly concentrated in a few provinces. The students of the top six provinces in the amount of enrolment occupy in over half of the number of total students. Secondly, 50% students of NGPS by different level and type mainly stay in eastern developed provinces. At secondary education level, the proportion of students of NGPS in central provinces is higher than that in western provinces. However, in kindergarten and primary school level, it is opposite. Thirdly, the seating orders of top six provinces by the scale of students are divergent in different school types. In Beijing and shanghai under the best economic and social development, other NGPS are out of the top six except at higher education level. In the level of secondary and primary education, both developed eastern provinces such as Zhejiang, Guangdong, and Jiangsu; or central provinces with large populations like Henan, Jiangxi, Hunan, and Anhui; and western backward provinces like Sichuan, Guizhou and Guangxi (see Table5). All above mentioned shows that factors involved in quantity and scale of NGPS are overly complicated or complex, which are population, development level of public education, government policy on NGPE, and besides economic and social development conditions and payable capacity of residents.

3. Average enrolments per school and teacher student ratio of non-government/private schools

In recent years, average enrolments per school and teacher student ratio of NGPS is closer to that of the public schools step by step. The Average scale per school of NGPS has been increasing, and the scale efficiency has been rising up. At the same time, teacher Student ratio in NGPS has dropped down excepting in primary schools. It shows that teaching conditions in NGPS are improved (See table6). But between cities, county seats and towns and rural areas the average enrolments per school and teacher student ratio of NGPS are different (See table7).

Table6. Average enrolments and teacher student ratio of NGPS (1997,2003)

	Kindergarten		Primary School		General Sec. School		Vocational Sec. School		Higher Edu. Institutions	
	1997	2003	1997	2003	1997	2003	1997	2003	1997	2003
Average enrolments in NGPS (person)	55	86	289	484	321	629	267	570	700	4682
Average enrolments in public school (person)	151	250	222	272	775	1119	630	941	3112	7451
Teacher student ratio in NGPS	23	21	18	23	24	20	31	22	-	16
Teacher student ratio in public school	29	25	24	20	17	22	16	15	8	15

Source: *Educational Statistics Yearbook of China in 1997, Educational Statistics Report*, Volume 1, 2004, by Department of Development and Planning, Ministry of Education, P.R.C.

Table7. Average enrolments (AE), teacher student ratio (TSR) of NGPS by different areas (2002)

	Kindergarten		Primary school		General sec. school		Vocational sec. school	
	AE	TSR	AE	TSR	AE	TSR	AE	TSR
Cities	99	18	689	20	576	18	423	23
County seats & towns	83	23	482	21	652	21	497	23
Rural Areas	68	27	281	33	406	21	361	22

Source: *Essential Statistics of Education in China, 2002*

4. Sources and components of revenue

In 1997, the total expenditure of NGPE was RMB 3, 017 billion in total, only 1.2% of the whole national educational expenditure in China. In 2001, the total expenditure of NGPE increased up to RMB 12, 809 billion, so they rose up to 2.76%.

The main feature of sources of revenue for NGPS is that, two thirds of the revenue is collected tuition and miscellaneous fees coming from students. The school holders' input is just proportioned to 18.4%. The other income sources are approximately 16%. By level and type of NGPS are different from their revenue sources. First of all, tuition and miscellaneous fees

rank the first place in the higher educational institutions, about 83%; the second place belongs to specialized and vocational secondary schools, over 66%; that of general secondary schools and primary schools is fairly lower one, by 60%. Therefore, comparing with public schools, the educational funds of NGPS mainly rely on tuition and miscellaneous fees gathered from students. (See table8)

Table8. Sources of Educational Fund of NGPS (2001)

	Total (in billions RMB Yuan)	Percentage (%)			% of Tuition & Fees in Public Schools	
		Total	Fund by Holder	Tuition & Fees		Other Incomes
Total	12.81	100.0	18.4	65.9	15.7	17.1
Higher Edu. Institutions	2.54	100.0	12.3	82.9	4.8	25.7
Specialized Sec. School	0.27	100.0	17.5	66.3	16.2	34.5
General Sec. Schools	6.73	100.0	19.8	61.6	17.3	15.6
Vocational Sec. Schools	0.6	100.0	12.3	71.1	16.6	24.0
Primary Schools	2.55	100.0	22.7	60.2	17.1	8.9

Source: *China Educational Finance Statistical Yearbook, 2002.*

5. Average educational expenses and per student in non-government/private schools

From 1997 to 2001, except primary schools, the average educational expenses per student of NGPS are increasing. Compared with public schools, average expenditure per student in non-government/private general secondary and primary schools is higher. However, at vocational secondary schools and regular higher educational institutions it is lower than the public schools. Because the revenue of NGPS mainly rely on tuition and miscellaneous fees gathered from students, the tuition and fees per student in NGPS is much higher than in public schools (See table9).

Table9. Comparison of Average Expenditure per Student of NGPS and Public School

Year	Primary Schools		General Sec. Schools		Vocational Sec. Schools		Regular Higher Institutions	
	NGPS	Pub.Schl.	NGPS	Pub.Schl.	NGPS	Pub.Schl.	NGPS	Pub.Schl.

1997	3230	591	3538	1282	2022	2226	3665	10666
2001	2134	972	4177	1744	2651	3048	12111	15445
Tuition & Fees per student	1286	88	2575	279	1884	745	7536	4308

Source: *Educational Expenditure Statistics Yearbook of China (1998, 2002)*.

6. Educational expenditure components of non-government/private school

Comparing with the public schools the expenditure components of NGPS shows the following features. First, the current expenditure in NGPS is lower, but its constructional expenditure is higher than that in the public ones. This may be involved in that many NGPS have been established in recent years with lots of constructional tasks. For a number of NGPS, they apply on management, accumulation, and construction at the same time. Secondly, the expenditure for teachers' salary and students' subsidy in NGPS is lower, but the teaching expense is higher than that in public schools (See table10). The following factors may have an effect on this. At first, there are many temporary and part-time teachers employed and no redundant staff or retired teachers need to pay. Secondly, NGPS are not required to subsidize poor students like the public schools. Expenditure structure in NGPS is different from that in the public schools. Does the different structure between NGPS and public school mean whether their different efficiency or not, this is an issue which needs to be probed into deep in the future.

Table10. Components of Expenditure of NGPS and Public School (2000)

	Total	Recurrent Expense						Constructional Expense	
		Total		Staff expense		Teaching expense		NGPS	Pub.Schl.
		NGPS	Pub.Schl.	NGPS	Pub.Schl.	NGPS	Pub.Schl.		
Total	100.0	69.8	98.4	30.4	54.0	39.4	35.5	30.2	10.5
Higher Edu. Institutions	100.0	67.1	81.0	23.3	39.0	43.9	41.9	32.9	19.1
Specialized Sec. Schools	100.0	84.7	90.6	39.8	48.2	44.9	42.4	15.3	9.4
General Sec. Schools	100.0	67.0	90.4	29.4	56.5	37.6	33.9	33.0	9.6
Vocational Sec. Schools	100.0	81.7	90.8	34.2	53.1	47.5	37.6	18.3	9.2
Primary schools	100.0	73.7	95.3	34.1	70.4	39.6	24.9	26.3	4.7

Source: *China Educational Finance Statistical Yearbook in 2001*.

7. Brief summary

The following conclusions can be made from the above analysis. First, in recent years, the number of NGPE is increasing up steadily and its proportion in whole education system is heightening gradually. Secondly, the development of NGPE in different area is unbalanced, and the NGPS mainly concentrated in few provinces. By the different education level, the distribution of NGPS it takes on variety. Thirdly, NGPS is closer to public schools in teaching facility. Non-government/private secondary schools and primary schools are higher than that in public ones in this respect. Fourthly, the main source of educational funds of NGPS comes from tuition and miscellaneous fees collected from students. The expenditure components of NGPS are featured by small proportion of staff expense, however, teaching expense and constructional expense occupy large proportions.

II. The Promulgation and Implementation of the Law on Promotion of Non-government/private Schools and the Regulations on Implementing This Law

In December 2002, the National People's Congress passed the Law of the People's Republic of China on Promotion of NGPS (hereinafter referred to as the Promotion Law) and the Regulations on Implementing the Promotion Law (hereinafter referred to as the Implementation Regulations) for implementation as of April 1, 2004. This indicates that NGPS schools have entered a new stage of development.

Before the Promotion Law, China had promulgated the Certain Provisional Regulations on Schools Run by Nongovernmental Sectors (the Ministry of Education, 1987) and the Regulations on Schools Run by Nongovernmental Sectors (the State Council, 1997). However, these regulations are becoming increasingly limited in terms of binding force and content as NGPS develop and changes take place in their external environment. The Promotion Law and the Implementation Regulations improved the legal position and environment of NGPS. In addition, the Promotion Law is China's first education law with "promotion" in its name. This shows that the positive value orientation of the government for enthusiastically encouraging and fully supporting NGPS.¹

¹ Hu Wei and Ding Xiaojiong (ed.), *Focus on Legislation on Private Schools*, Education Science Publishing House, 2001; Lu Ganqi, "Notes on the Law on Promotion of Private Schools," *China Education Daily*, January 3, 2003; and Chu Zhaosheng, "Perspectives of Legislation on Private Schools," *China Education Daily*, January 7, 2003.

The main differences between the regulations on schools run by nongovernmental sectors and the Promotion Law are as follows:

1. Strictly defining the definition and scope of non-government/private schools under its jurisdiction

The original concept of “schools run by nongovernmental sectors” had so large an extension that the scope was too wide. The Promotion Law has this definition of NGPS taking into consideration their sponsors (nongovernmental organizations), sources of funding, service targets, and other respects: “activities conducted by public organizations or individuals, other than state organs, to establish and run schools and other institutions of education with nongovernmental funds, which are geared to the needs of society” (Article 2). According to this definition, the Promotion Law is not applicable to schools run by organizations of state power, administrative organs, and military organs, schools run with government budgetary funds, and education training activities enterprises and institutions carry out for their own employees. Strictly defining non-government/private schools’ connotation and extension is of great significance for standardizing, protecting, and supporting these schools.

2. Emphasizing the public welfare nature of non-government/private schools, but at the same time allowing their investors to obtain reasonable amounts of requital

During recent years, due to the impact of the ideological trend of “industrialization of education ” and “marketization of education,” some NGPS tended to operate on a commercial basis or in the way enterprises do in order to seek profits. As a result, their public welfare nature was questioned. To address this problem, the Promotion Law notes, “Non-government/private schools are public welfare undertakings”. This makes it clear that NGPS are different from profit enterprises, that their goal is not to maximize their profit, and that they should put public interest before everything else. However, at the same time, as measures for “supporting and rewarding” NGPS, the Promotion Law stipulates, “After the cost of a private school is deducted, the funds for its development are withheld and the sum of money for other necessary expenses is retained in accordance with the relevant regulations of the state, the investor may obtain a reasonable amount of requital from the cash surplus of the school”.

While the Promotion Law was formulated, the question of “requital” was most controversial. Those who opposed to “requital” held that if requital

were allowed, it would mean to affirm that NGPS were private. This would go against the Education Law which stipulates that “schools shall not take profit as its aim” (Article 25). It would also contravene the Promotion Law, which stipulates that NGPS are public welfare institutions. In addition, this would give rise to chaos in the operation and management of NGPS and go against the basic international norms for public welfare and nonprofit institutions.

Those who were in favor of “requitat” held that obtaining reasonable amounts of requital was a natural right of a citizen or legal person who owned property. Allowing reasonable amounts of requital would arouse the enthusiasm of investors and attract more nongovernmental funds to education. Few of China’s NGPS were run with donations. In most cases, people invested in these schools in return for requital. Allowing reasonable amounts of requital would therefore not change the nonprofit nature of NGPS.²

Eventually, the Promotion Law allows the investors or sponsors of NGPS to obtain reasonable amounts of requital. According to the explanation of the National People's Congress, it intended to take allowing reasonable amounts of requital as a preferential policy and incentive measure for attracting and encouraging nongovernmental sectors to invest more in NGPS. However, the National People's Congress stressed that reasonable amounts of requital were conditional and limited and that it did not mean that NGPS could be operated for profit.³

The Promotion Law is applicable to two types of NGPS. One is the purely nonprofit schools that are run with donations or school accumulation, charge tuition, and do not obtain requital. The other is the public welfare schools that are run with investment, charge tuition, and obtain requital. The Promotion Law is not applicable to the commercial cultural, educational and training institutions that are registered with the administration of industry and commerce and under its supervision.

3. Clarifying the ownership, management, and use of the property of non-government/private schools

In response to the problems caused by the undefined ownership of property of NGPS, the Promotion Law has these clear stipulations about their ownership: “Non-government/private schools shall enjoy property

² “Non-government/private Schools Have a Legal Guarantee Now: Notes on the Enactment of the Law on Promotion of the Non-government/private Schools,” *China Education Daily*, December 29, 2002.

³ Hou Xiaojuan, “Legislation on Non-government/private Schools in China,” *Research on Non-government/private Schools*, No. 2, 2003.

rights as legal persons in respect of the assets they received from their sponsors, state-owned assets, donated property and school accumulation” (Article 35), and “While non-government/private schools exist, they shall manage and use all their assets in accordance with the law, and no organizations or individuals may take illegal possession of them” (Article 36).

The Promotion Law includes the following important principles. First, it clearly specifies the concept of “ownership as legal persons” and the origin and ownership of legal person assets. Legal person ownership is different from individual ownership. Investors of NGPS are entitled to the ownership only of the assets they put into these schools, not of all the assets of legal persons. The individual assets of investors should be separated from the legal person assets of schools, and the increased assets of NGPS after allowing for reasonable amounts of requital shall belong to society. When the schools are terminated and dissolved, after their debts are repaid, their investors may withdraw their principal, their government investment shall belong to the government, the donations they received from nongovernmental sectors and their increased assets after allowing for the requital for their sponsors shall belong to the schools, and these assets shall be used by education authorities for educational public welfare enterprise. Second, the Promotion Law specifies the nature and use of assets of NGPS. Assets of public welfare NGPS are not for operation, and they are different from enterprises’ assets for operation. These assets can be used only to run schools and shall not be used for operation activities, transferred or mortgaged. Third, the Promotion Law specifies the principle whereby the ownership of school assets is separated from the school assets use right. To be more specific, while the schools exist, investors’ ownership of the assets they put into the schools is separated from the right to manage and dispose of them. No organizations or individuals, including investors, may withdraw their assets at will or alter the use of their assets, and the schools have the right to use and manage all of their assets.

4. Standardizing the legal person governance for non-government/private schools

First, the Promotion Law specifies the decision-making bodies of NGPS. It stipulates, “A non-government/private school shall set up an executive council, a board of directors or other forms of decision-making bodies” (Article 19). “The executive council or the board of directors the school shall be composed of no less than five persons” and its powers are to appoint and dismiss the principal; to formulate and amend the articles of

association and rules and regulations of the school; to make the school's development plans and approve its annual work plans; to raise operation funds of the school, and examine and verify its budgets and final accounts; to decide the size and the wages of the teachers and education worker; and to decide the division, merger or termination of the school and other important matters.

Second, the Promotion Law specifies the functions and powers of the principal of a non-government/private school. These include: to carry out the decisions of the executive council or the board of directors of the school; to implement the development plans, draw up the annual work plans, prepare budgets, and formulate rules and regulations of the school; to appoint and dismiss employees of the school, and give rewards and impose punishments; to organize education, instruction, and scientific research, and ensure the quality of education and instruction; to be responsible for the day-to-day administrative work of the school; and to do other things as he is authorized to do by the executive council or the board of directors of the school.

5. Working out detailed access and withdrawal mechanisms

In terms of access mechanisms, the Promotion Law has higher requirements for qualifications and conditions for running NGPS than previous regulations. For example, it stipulates that "non-government/private schools must have the qualifications of a legal person" (Article 9), and that "the standards for establishing non-government/private schools shall conform to those for establishing public schools of the same grade and category" (Article 10). In terms of access procedures, the Promotion Law distinguishes preparation for establishing non-government/private schools from official establishment of these schools, and it has more concrete stipulations about the application procedures, steps and documents needed for application.

With regard to the withdrawal of NGPS, the Promotion Law stipulates that when NGPS terminate, they must be liquidated. The law specifies who should carry out the liquidation (Article 58) and the specific order for safeguarding the quarters concerned and of repayment (Article 59).

6. Strengthening the government's support and supervision of non-government/private schools

In addition to reasonable amounts of requital, the "support and reward" measures the government has for NGPS as stipulated in the Promotion Law include the following: The government may set up special funds for

financing, rewarding and commending NGPS. The government may also support NGPS by such measures as providing financial aid and leasing or transferring idle state-owned assets. NGPS shall enjoy preferential taxation policy of the state. These schools may accept donations from society, and the donators are entitled to state preferential taxation treatment. The state encourages financial institutions to support NGPS by means of credit. Where the government entrusts a NGPS with the task of compulsory education, it shall allocate the necessary funds. There will be preferential policy treatment for the land and capital construction for building or expanding NGPS as public welfare undertakings.

In addition, the Promotion Law has additional stipulations on education authorities' supervision, guidance, evaluation and intermediary service for NGPS. For example, it stipulates, "Education authorities and the relevant departments shall supervise and guide NGPS in accordance with the law in order to promote the improvement of their quality; and they shall organize or entrust public intermediary bodies to organize the evaluation of the level and quality of education of such schools, and make the results known to the general public" (Article 40). "The state supports and encourages public intermediary bodies to provide services to non-government/private schools" (Article 43). "The use of the assets for non-government/private schools and their financial management shall be subject to supervision by the examination and approval authority and other relevant departments. Non-government/private schools shall prepare their financial accounting statements toward the end of each fiscal year, entrust accounting firms to audit the statements according to law, and publish the audit results" (Article 38).

III. The Government's Responsibilities for Developing Non-government/private Schools

The government has the main responsibilities for developing NGPS in accordance with the newly implemented Promotion Law and Implementation Regulations:

1. To formulate the standards for non-government/private schools at all levels, examine and approve their establishment, and issue them permits.

The establishment of NGPS that provide education for academic credentials and other cultural education shall be subject to examination and approval by the education authorities of the people's governments at or above the county level within the authority defined by the state. The establishment of NGPS that provide training for vocational qualifications and in vocational skills shall be subject to examination and approval by

the labor and social security authorities of the people's governments at or above the county level within the limits of the authority defined by the state, which shall send a duplicate of the approval document to the education authorities at the same level for the record.

2. To manage and supervise non-government/private schools.

Among other things, the government shall guide NGPS in respect of education, instruction, and teacher training (Article 39). It shall supervise and guide NGPS in accordance with the law in order to promote the improvement of their quality; and it shall organize or entrust public intermediary bodies to organize the evaluation of the level and quality of education of such schools, and make the results known to the general public (Article 40). The government safeguards the rights of the trainees of NGPS. For example, the general regulations and advertisements for student enrollment of NGPS shall be submitted to the government for the record (Article 41). The government accepts the petition of trainees for their non-government/private schools' infringement upon their lawful rights and interests (Article 42). The government supports and encourages public intermediary bodies to provide services to non-government/private schools (Article 43). The government organizes or entrusts public intermediary bodies to organize the evaluation of the level and quality of education of non-government/private schools (Article 32 of the Implementation Regulations). It formulates the supervision and management methods for the charges of NGPS. The price authorities of the government approve and publish for public supervision the charges NGPS make for education for academic credentials (Article 35 of the Implementation Regulations). The government also supervises the use and management of the state-owned assets and donated assets of NGPS.

3. To take charge of the planning, coordination and macro-control of non-government/private schools.

The education authorities, the labor and social security authorities and other departments under the State Council are responsible for the work of relevant NGPS within the scope of authority as stipulated by the State Council (Article 7). The education authorities under the local people's governments at or above the county level are responsible for the work of NGPS in their administrative regions. The labor and social security authorities and other relevant departments under the local people's governments at or above the county level are responsible for the work of NGPS within the scope of their authority (Article 8).

4. To give support and reward to non-government/private schools.

The government may set up special funds for financing, rewarding and commending NGPS (Article 44). It may support NGPS by such measures as providing financial aid and leasing or transferring idle state-owned assets (Article 45). The government formulates preferential taxation policy for NGPS (Article 46). The government encourages financial institutions to support the development of NGPS by means of credit (Article 48). The government entrusts a NGPS with the task of compulsory education (Article 49). The government gives NGPS preferential treatment in accordance with the regulations on the use of land for, and the construction of, public welfare undertakings (Article 50). After the cost of a NGPS is deducted, the funds for its development are withheld and the sum of money for other necessary expenses is retained in accordance with the relevant regulations of the state, the investors may obtain a reasonable amount of requital from the cash surplus of the school (Article 51).

IV. Chinese-Foreign Cooperation Running Schools

Under the current Chinese laws and China's commitments to the World Trade Organization, the Chinese government does not allow foreign organizations or institutions to run their wholly-owned schools in China. However, it allows them to cooperate with Chinese education institutions in running schools.

In accordance with the Regulations on Chinese-Foreign Cooperation Running Schools promulgated in 2003, Chinese-foreign cooperation running schools are public welfare undertakings. The Chinese government's principle for establishing Chinese-foreign cooperation running schools is to open wider to the outside world, standardize the schools, manage them in accordance with the law and promote their development. The state encourages the use of foreign quality education resources in Chinese-foreign cooperation running schools. It encourages Chinese-foreign cooperation in providing higher education and vocational education. It also encourages Chinese colleges and universities to run schools in collaboration with famous foreign colleges and universities (Article 3). Chinese and their foreign partners may establish all types of schools at all levels except schools for compulsory education, and for military, police, political or other special education (Article 6). Relevant regulations should be followed in case of compulsory education. Both public schools and NGPS in China are cooperating with foreign institutions or organizations in running schools. However, the current statistics does not specify the number of public schools or the number of NGPS that have joint schools with foreign partners.

After China joined the WTO and signed the education service trade agreement, Chinese-foreign cooperation in running schools has been on the increase. The number of applications for establishing Chinese-foreign cooperation running schools has increased considerably, and the form of cooperation has become more and more diversified. According to incomplete statistics, China had 712 Chinese-foreign cooperation running schools or projects at the end 2002, an increase of 900% over 1995. These schools were found in 28 provinces, municipalities directly under the Central Government and autonomous regions.

In terms of geographical distribution, Chinese-foreign cooperation running schools were located mostly in the eastern coastal provinces and in large and medium-sized cities that are economically and culturally developed. The six top provinces and municipalities of Shanghai, Beijing, Shandong, Jiangsu, Liaoning, and Zhejiang accounted for 60%.

Foreign partners are mainly from countries and regions that are developed economically, scientifically and technologically and attach great importance to export of education service trade. The top 10 countries are the United States (21.6%), Australia (20.5%), Canada (10.4%), Japan (8.1%), Hong Kong (7.9%), Singapore (6.5%), the United Kingdom (5.6%), Taiwan (4.4%), France (3.4%), Germany (2%), and the Republic of Korea (1.7%).

As far as levels and types are concerned, schools offering education for academic credentials are in the majority, totaling 372, or accounting for 52%. To break down, 42 are general secondary schools of which 40 are senior secondary schools, 105 are second vocational schools, 82 offer two- or three-year college education, 69 offer undergraduate education, and 74 offer postgraduate education. There are 313 schools that do not offer education for academic credentials, accounting for 44%, and 27 kindergartens, taking up 3.8%. All this is illustrated in the figure below.

In terms of specialties, 255 schools and projects, or 36%, offer specialties relating to business administration such as business administration, marketing, accounting, financial management, human resources management, and tourism management; 132 schools and projects, or 19%, offer foreign-language specialties; 94 schools and projects, or 13%, offer computer-related specialties; 74 schools and projects, or 10%, offer specialties relating to economics such as the international economy, international trade, finance, and banking; 37 schools and projects, or 5%, offer specialties in the arts; 19 schools and projects, or 3%, offer

education-related specialties; and 101 schools and projects, or 14%, offer specialties in other areas.

V. Main Obstacles and Policy Issues to Developing Non-government Education

NGPS have developed considerably during recent years, and the Promotion Law and the Implementation Regulations have been put into practice, but China's NGPS are still faced with some problems and policy-related questions.

At present, the main difficulties facing NGPS are as follows. First, the source of students. NGPS are in an unfavorable position to compete with public schools for recruiting new students. Their enrollment pressure often leads to unfair competition and nonstandard enrollment action. For example, as NGPS publish unrealistic advertisements, enroll students indiscriminately, make unauthorized charges, and grant diplomas indiscriminately, their fame has been significantly tarnished. Second, quality. Many NGPS are inferior to public schools in terms of teachers, school conditions, students, and teaching management. In addition, NGPS lack effective quality certification and guarantee mechanisms, so their quality as a whole has yet to be improved. Third, avoiding operation risks. As reasonable amounts of requital are allowed, more commercial capital will be involved in NGPS. As capital is profit-oriented and speculative, the risks for the management and operation of the capital of NGPS will increase.⁴ How to avoid these risks is also a major question for NGPS.

To solve the above-mentioned problems and promote the sound and sustainable development of NGPS the following must be done.

1. Appropriately handling the relationship between the public welfare nature of non-government/private schools and their entitlement to "reasonable amounts of requital"

In order to avoid conflicts that could rise between the public welfare nature of NGPS and their entitlement to "reasonable amounts of requital," the Implementation Regulations have the following stipulations on "reasonable amounts of requital." First, NGPS that are run with donations or the investors do not obtain requital are entitled to the same taxation and other preferential policies as public schools. Second, it is clearly

⁴ Wu Daguang, "The Marriage Between Non-government/private Colleges and Universities and the Capital Market," *Papers Presented at the High-Level Forum on Non-government/private Colleges and Universities and the Capital Market*, the Non-government/private Colleges and Universities Research Center of the Institute of Higher Education of Xiamen University, January 2004.

defined that “the cash surplus of the school” is its annual net profit after deducting cost of school running, nongovernmental donations, and government-provided assets, withholding funds for its development, and retaining the sum of money for other necessary expenses in accordance with the relevant regulations of the state. Third, the proportion for requital is determined by NGPS in accordance with the three factors as follows: the projects for which charges are made, and the charges; the proportion of expenses for education and teaching activities and for improving teaching conditions in the charges collected; and the level and quality of education. It is stipulated that if a NGPS makes high charges, has a low proportion of operation expenses in the charges, and has a low level and quality of education should not receive higher requital through its cash surplus than other schools of the same type and at the same level. Fourth, NGPS should make public the information about its level and quality of education and its financial conditions. Fifth, specific stipulations are made for education actions for which no requital should be obtained under certain circumstances. These are publishing false general regulations and advertisements for student enrollment to obtain money, increasing the number of projects for which charges are made or the charges without authorization, illegally issuing or falsifying certificates of academic credentials or qualifications, wangling, falsifying, altering, selling, buying, renting or lending school permits, having confusion in financial and assets management, violating state taxation regulations and being punished for that, having major potential safety problems with school premises or teaching facilities, suffering from major accidents in which people get killed or injured, and having a low quality of education.

The above-mentioned stipulations have new requirements for the internal management, external management and evaluation of NGPS. Improving the assets and financial management and accounting systems of these schools in accordance with the law, making their operation transparent and open, establishing the internal mechanisms and external evaluation mechanisms for guaranteeing their level and quality of education, and clarifying the preferential taxation policy for reasonable amounts of requital are major policy issues in the current effort to implement the Promotion Law and ensure the public welfare nature of NGPS.

2. Creating an environment for fair competition and common development

The objective of the reform of China’s system for running schools is to ensure that public schools and NGPS complement each other, compete on

an equal footing, and develop side by side. However, in terms of policy, there is not truly fair competition between non-government/private and public schools.

Under the pretext of “transformation,” some public schools make use of their superiority in public education resources and policy, enroll students not under their jurisdiction and collect high charges from them to compete with NGPS for students. This squeezes the survival space of NGPS, and constitutes an unfair competition. Some local governments often adopt special preferential policies for schools with special background or give them special considerations. This is unfair for other NGPS. Taking the turning point of implementing the Promotion Law, it is essential to eliminate the policy discrimination against NGPS, make sure that these schools receive the same treatment as national schools, and create an environment for fair competition between privately- and public schools. For example, for the non-government/private colleges which have a longer history and offer a higher level of education are qualified to be promoted as undergraduate colleges or universities must be treated equally as independent colleges.⁵

3. Improving and strengthening the management, supervision and support of non-government/private schools

To implement the Promotion Law, it is essential to further improve the government’s management of NGPS. It can be said that government management and supervision of these schools are either “excessive” or “insufficient”. By “excessive,” we mean that there is too much direct administrative intervention or control of NGPS, the management is random, and there is even abuse of power. For example, charges are made for management in violation of regulations. Some local government authorities hold shares in NGPS or help them get financing, which is inappropriate. By “insufficient,” we mainly mean that the government does not do, as much it should to safeguard market order, correct the unfair competition of NGPS, and provide these schools with necessary guidance and information service. After the promulgation of the Promotion Law, the government should earnestly change its concept and function of education management, shift the focus of its management of NGPS to ensuring their public welfare nature and their quality, safeguarding market order, and promoting fair competition. It should strengthen the performance of its official duties and improve its legal supervision, policy guidance, information service, evaluation, and

⁵ Mou Yangchun, “Independent college: the historical selection of new development of higher education in china”, *Exploring Education Development* (Shanghai), 2004.4.

financial support. In particular, it should establish quality certification and evaluation mechanisms for NGPS as soon as possible. The government should actively support the development of public intermediary bodies related to NGPS so that they can play a positive role in the management of these schools and especially in information consulting service, qualification certification, and quality evaluation.

The government should increase its financial support for NGPS that play an important role in alleviating the shortages in public education resources and have a strong nature of public welfare. For example, in the form of government purchase, it should allocate funds to the NGPS it entrusts to provide compulsory education in accordance with the average teaching expenses it allocates to public schools. In particular, it should give special support to NGPS in poverty-stricken areas.

4. Improving the corporate governance and self-discipline mechanism in non-government/private schools

Establishing a modern school corporate governance based on independent legal person is an important institutional guarantee of the coordinated development of NGPS in both independence and public welfare nature, and it is the core content of efforts to establish a modern system of NGPS and the mechanism for these schools to operate and develop independently and to be self-disciplined.

At present, some NGPS have not yet established a standard mechanism of the executive council or board of directors. They are managed the way a family enterprise or a small workshop is managed. Although some of them have established the standard system of the executive council or board of directors, their operating procedures are not standard so that they are not so effective as they should. During recent years, the external competition of NGPS has become increasingly keen, and the parties whose interests are related with NGPS have been diversified. It has therefore become more and more urgent to improve the corporate governance of these schools. The promulgation of the Promotion Law has provided the legal basis and a new opportunity for improving the corporate governance. In addition to the executive council or board of directors, the governance mechanism of NGPS also includes the internal management system based on articles of constitution, the system of worker's conferences, the system of the supervisory board, the system of making school affairs transparent, and expanding the democratic participation of people from outside & inside the school in the process of decision-making and management.

VI. Proposals and Plans for the Government to Develop Non-government/private Schools

In accordance with the 2003-2007 Action Plan for Promoting Education Development recently promulgated by the Ministry of Education, the Chinese government will implement the principles of enthusiastic encouragement, vigorous support, correct guidance, and administration according to law, vigorously support and promote the sustained, sound, coordinated and rapid development of NGPS, create an environment favorable for these schools to become independent and self-disciplined and have sound development, and form a pattern in which NGPS and public schools complement each other, compete on an equal footing, and develop side by side.

The specific measures include the following: First, conscientiously implementing the Promotion Law, safeguarding the rights and interests of NGPS in accordance with the law, and putting into practice the state's support measures and relevant preferential policy for NGPS. Second, strengthening the policy guidance of NGPS, promoting their expansion, improving their operating conditions, improving their education quality, and increasing their overall strength. Third, giving greater rewards to NGPS and education agencies for their outstanding achievements. Fourth, strengthening the standardization and management of NGPS and establishing the mechanism for fending off risks. Fifth, under the principle of "active development, standard management, and reform and innovation," working hard to explore many forms of NGPS by attaching great importance to reform and institutional innovation. Restructuring and institutional innovation should be carried out in all types of NGPS at all levels, and all models of schools that fall within the framework of state's laws and regulations should be boldly tried out so that major steps are taken in developing NGPS. Nongovernmental sectors and general colleges and universities should be encouraged to jointly run independent colleges in the way NGPS are run. The innovative forces, capital resources, and current high-quality education resources should be integrated to effectively expand the space for developing non-government/private colleges and universities.

Independent colleges are a new model that emerged during recent years for running schools. They are secondary colleges established by integrating the abundant teaching forces in public regular colleges and universities offering undergraduate courses with nongovernmental capital. They are privately run and offer undergraduate courses. The partners of independent colleges can be enterprises, institutions, public organizations,

individuals or other competent agencies. They are responsible for providing all the conditions and facilities needed to establish independent colleges, and take part in their management, supervision and leadership. The two parties to the cooperation operate in accordance with a legally binding cooperation agreement and establish a board of directors for the college. They cover or raise the funds as a non-government/private college all the expenses incurred in the building and development of the college and other relevant expenses. Independent colleges may charge their students in accordance with the charges the state stipulates for students of non-government/private colleges and universities. That means their charges may be higher than public colleges and universities. The government requires that independent colleges should have independent campuses and the basic facilities needed for operation. They should have relatively independent teaching organization and management. They should independently enroll students, issue diplomas, and practice accounting. They should have qualifications as an independent legal person, and independently possess capacity for civil conduct. Statistics of independent colleges can be done as independent institutions of higher learning. By April 22, 2004, the Ministry of Education recognized 211 independent colleges.

Some purely non-government/private colleges and universities oppose the policy of encouraging the development of independent college; they do not think the policy is good for their development. They hold that the policy helps public colleges and universities to compete with non-government/private colleges and universities for recruiting new students and is not conducive to fair competition between private sector and public sector.⁶ However, some education policy-makers hold that independent colleges are a new model designed to promote the rapid development of undergraduate education by diversifying education due to a lack of resources. They also believe that these colleges will ease the conflicts between the rapid expansion of higher education and the shortages in public resources and increase the scale and resources of higher education.⁷

VII. Conclusion

During recent years NGPS developed rapidly in China, and their position and proportion have gradually increased. The promulgation and implementation of the Promotion Law and the Implementation Regulations have improved the legal environment for developing China's

⁶ Pan Maoyuan, "Connecting with the Capital Market," *Education Development Research*, Shanghai, No. 3, 2004.

⁷ Mou Yangchun, "Independent Colleges: Historical Option in the New Development of China's Higher Education," *Education Development Research*, Shanghai, No. 4, 2004.

NGPS, and provided a new opportunity for their further development. However, China is still faced with major issues in its efforts to carry out the Promotion Law, to implement all the policies specified in the Promotion Law in order to achieve positive policy results, make sure NGPS develop both in quantity and in quality, form a pattern in which public schools and NGPS compete on an equal footing, complement each other, and develop side by side.

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