

A Study on the Theory of the Legal Nature of Child Visitation in Japan and China : Considering the Adjustment of the Interests between the Parties

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Modern civil law views the legal relation between the relatives as a relationship between individuals. From this perspective, unless there are special circumstances, the interests of visitation for both parent and child must be guaranteed. However, sometimes the interests between parent and child may be in conflict. It is worth noting that in what way have the interests been adjusted in such cases.

This article argues that the problem of adjusting the interests of visitation for parent and child is closely related to the theory of the legal nature of visitation. If visitation is a legal right or a legal responsibility, the structure of legal relation between parent and child would be clarified. The direction of the adjustment of the interests between the parties can be given in this structure. Therefore, it is significant to clarify the legal nature of child visitation in order to adjust the interests between the parties.

This article reviews the development of the theory of the legal nature of visitation in Japan and China to reach a conclusion of its discussion, and discuss how the conflict of interests between the parties can be adjusted on this basis.