

# Educational Practice Outside the System: Exploring the Legalization Dilemma of Chinese-styled Homeschooling

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**Abstract:** Meeting the increasingly unique and different educational requirements of people has become a genuine problem for education in all countries as society develops and advances. The growth of alternative educational approaches globally is an investigation of this topic, and China's basic education reform urgently needs to learn from the positive experiences of the rest of the world. In recent years, the phenomenon of "home schooling" has quietly emerged in mainland China, but the ensuing issue of the legality and legitimacy of "home schooling" has attracted widespread attention. This paper analyses the legality and legitimacy of home schooling on the basis of the right to education and national legislation, and offers suggestions for the future legalisation of home schooling in China from both legal and policy perspectives, with a view to benefiting basic education in China.

**Keywords:** Homeschooling, Chinese education system, Alternative educational method, Educational legitimacy.

## 1. Introduction

Homeschooling is a new form of education outside of laws and systems that has emerged in mainland China in the past ten years. This is a unique way of education that first sprouted in the United States at the end of the 19th century. Usually refers to the school-age children in the family environment, mainly by parents, sometimes by tutors, instead of receiving education in a formal public or private school[1]. However, due to China's special national conditions, Chinese-styled homeschooling is not the same as the international general meaning. In 2013, the China "Homeschooling" Alliance reached the "China Homeschooling Beijing Consensus" at the exchange conference[2]. The consensus pointed out that the definition of homeschooling in China refers to the form of education in which children are taught at home, parents teach themselves or extend teachers, and parents organize micro schools or private schools. It is a non-schooling form, Parent self-help education type. This difference in formal norms has brought about a series of legislative dilemmas and education fairness issues. One of the big reasons is that Chinese-styled homeschooling exists in the gray area of China's education system and laws[3]. In addition, the latest data shows that after the release of the "China Homeschooling Research Report" in 2013, the 2017 private non-profit organization 21st Century Education Research Institute once again released a survey on "homeschooling". As of February 2016, there are about 6,000 people in Mainland China "homeschooling", and as many as 50,000 parents intend to implement homeschooling[4]. Obviously, the rapid trend of 30% growth within 3 years shows that Homeschooling, as a young alternative education method, has increasingly become the focus of attention. Regarding the phenomenon of homeschooling, there have been heated discussions in the field of education in China. Some researchers believe that homeschooling is the right of parents, should have legal legitimacy, and even some scholars have proposed a legislative framework[5], [6]. However, due to this embarrassing situation, Homeschooling's relevant data and literature in China are still very limited. Therefore, this paper

will focus on the legality dilemma of Homeschooling in China, analyze the causes of the problems from two levels of education rights and national legislation, and provide reference suggestions for the legalization of Homeschooling in China in the future from legal and policy aspects.

## 2. The Ambiguous Boundaries of Family Education Rights in China

This study believes that the blurring of the boundaries between China's family education power and the state and school education power is one of the main reasons for the legalization of Homeschooling. First of all, from the perspective of the relationship between China's family education rights and national education rights, China's Constitution clearly declares that "parents have the duty to raise and educate minor children", and the Compulsory Education Law of the People's Republic of China stipulates: Nine-year compulsory education system. Compulsory education is the education that all school-age children and adolescents must receive[7]. If China to emphasize only the compulsory nature of family education but ignores the right nature of education, it will also affect the final implementation of rights. Therefore, in China's long-standing universal concept, the awareness of the right of family education has been weakening, while the parent's education obligations have been strengthening. Furthermore, for the purpose of guaranteeing compulsory education and education fairness, these laws have undoubtedly increased the control of the state's education rights. Parents' education of their children is more a concept of obligation, and even parents think that educating their children is just to cooperate with the country.

In addition, from the perspective of the relationship between family education rights and school education rights, compared with school education rights, parent education rights in the compulsory education stage are in a disadvantaged position [6]. The teaching and management of Chinese schools has always been in a relatively closed state, and the cooperation between home and school is not strong. Especially in public schools, the main contact between

parents and teachers is the parent conference or contacting parents after children make mistakes. This has led to a low degree of family participation in school education, with obedience as the mainstay, and it is difficult for parents to participate in the teaching process. Furthermore, China's current school system does not clearly stipulate the educational rights enjoyed by parents, such as the right to know and the right to participate. Therefore, parents' needs and opinions can be fully considered when making decisions in schools, which also leads to the conservative nature of school decisions. Moreover, China's public schools are dominated by political and administrative power concepts, and parents are used to the state of no rights, it is easier to form closed management, and the contradiction of rights will be more intensified [8]. Therefore, as Michael Frullan[9] pointed out in "The new meaning of educational change": "A strong public school system is essential to a strong democratic society. However, this public school system is weakening rather than increasingly stronger, this is an institutional problem, that is, a social problem".

### 3. Lack of National Legislation in China

Another reason that cannot be ignored is the lack of legal provisions on the protection of family education rights at the national legislative level. Aristotle believes that "If a government is to achieve the goal of long-term stability, it must enable the people of all parts of the state (all classes) to participate and have the will to allow it to exist and continue [10]. At present, those Chinese parent groups who have firmly chosen Homeschooling gradually realize that their practice is facing an illegal dilemma, and therefore strongly hope that their legal status can be affirmed in the future. They shouted: "If the homeschooling group has not promoted the government's legislative protection in this area within five years, it may have failed." From the perspective of China's education legal system, compared with school education rights, the compulsory education stage The parent's right to education belongs to a disadvantaged position. Therefore, the different stakeholders of Homeschooling are looking forward to perfecting relevant legislation and solving illegal problems as soon as possible [6].

But at the same time, legislation is a long and slow process. China can learn from the United States. The United States is a federal country, and each state has the power to make laws on its own without violating the basic constitution. From the end of the 19th century to the end of the 20th century in the United States, it took nearly a hundred years for the United States to allow all 50 states to accept "homeschooling"[3]. Overall, when it comes to legislation, the legality of Homeschooling in the United States has a long process of legalization and maturity, and there is enough tension and room for interpretation, which is also a sign of its maturity and rationality[11]. Studies have pointed out that China's "homeschooling" has already been legalized, but the path to legalization is still unclear. Whether it is from children's acceptance of Homeschooling, or from social attitudes and public opinion, Homeschooling as an alternative education method has gradually shifted from spontaneity to consciousness[12].

### 4. Suggestions and Measures

First of all, it must be clear that the boundary of rights is an

urgent task, which is a prerequisite for legislation. It is particularly important to balance the relationship among family education rights, national education rights, and school education rights. The legislative process should refine the family education rights in the education law and clarify the content of the family education rights. At the same time, in order to ensure the effective implementation of family education rights, it is necessary to specify and restrict family education rights in detail from the legal level. For example, the new law needs to clearly define parents' right to choose education and receive state supervision, clearly stipulate the detailed connotation of "Home-School Cooperation", and give parents the right to know, participate, make proposals, and supervise. Ensure that parents can understand all kinds of information and participate in teaching plans and teaching policies. These legislative measures can give the key support for the final legalization of Homeschooling in China. [8], [13], [14].

Admittedly, it is a long process to re-enact the compulsory education law and clearly grant the legal status of "homeschooling". However, on the basis of the existing legal provisions, certain keywords are clearly defined as a practical and reliable solution. For a long time, China has lacked a set of operable compulsory education standards and homeschooling standards. The "Compulsory Education Law" clearly stipulates that "entry" is the only legal form of receiving compulsory education, and the only legal exception to exempt the obligation of "entry" can only be the physical condition of school-age children. Therefore, despite the government's vague acquiescence, it is clearly illegal[15]. In fact, it is only necessary to clearly define the "entry" in the regulations as entering a regular school and defining it as a school set up to systematically complete the training goals of the compulsory education stage, such as public schools, private schools, and home schools (homeschooling)[16]. This definition of key words in the law allows homeschooling to get rid of the edge of the law.

In addition, it is worth mentioning that, in addition to the major legislative recommendations, Professor Wang Jijia[17], a researcher on the topic of "homeschooling" education in China, has also committed to putting forward some practical suggestions for the transitional period on more flexible policies. For example, the establishment of a "homeschooling" certification system based on China's national conditions. By treating "homeschooling" as a special form of education, parents and children are allowed to apply for "homeschooling" in accordance with specific procedures to obtain the legal status of teaching, and parents are required to ensure that they can complete the prescribed educational tasks. Furthermore, he also suggested the formation of a homeschooling supervision and evaluation system. In a sense, this comprehensive and systematic "homeschooling" quality supervision concept and evaluation method ensures the quality of Homeschooling teaching. This includes guaranteeing the quality of "homeschooling" education in the process and results. In terms of parents and schools, in addition to trying new communication methods and service provision, he also suggested that the government introduce policies to establish government support, support from social organizations, and support from relevant educational and scientific research institutions[17]–[21].

### 5. Conclusion

In summary, by analyzing the current development of

Homeschooling in China and outbound families, from the perspective of national legislation and education rights, it can be found that the blurring of the borders between China's family education rights, school education rights and national education rights is the cause of the dilemma of the legalization of Chinese-Styled Homeschooling. Important reason. In addition, due to the lack of national legislative contributions, Chinese-Styled Homeschooling is currently stuck in a gray area of laws and systems. Therefore, the best solution to the predicament of the legalization of Homeschooling in China is to pass formal legislation. Clearly defining the focus and boundaries of the education law is also conducive to promoting the process of legalization. At the same time, before the implementation of legislation, some friendly and flexible policies can also provide support for the development of Homeschooling in China.

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