

Research on Legal Regulation of Stakeholders under the Background of “Double Reduction” Policy

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Abstract. The “double reduction” policy provides strong enlightenment for educational reform and an effective guarantee for a good educational ecological environment. However, related policies will inevitably encounter challenges and difficulties in their implementation, such as unclear limits of individual rights, vague boundaries of government supervision, and insufficient ways to relieve infringement. Due to the lack of legal regulation, the policy can not completely adjust the social relations of related subjects. Therefore, in addition to strengthening the legal guarantee of the “double reduction” policy, we should clarify the limits of individual education rights and the boundaries of government public power, so as to fully synergize family education, school education, and off-campus education, and ensure the relations and corresponding legal responsibilities of each subject.

Keywords: “Double Reduction”; Rights; Supervision; Legalization.

1. Questions Raised

Education is the cornerstone of national development. On July 24, 2021, the General Office of the CPC Central Committee and the General Office of the State Council issued the *Opinions on Further Reducing the Burden of Excessive Homework and Off-campus Tutoring for Students Undergoing Compulsory Education*, [1] which clarified the ideas of implementing “double reduction”, demanded to improve the quality of school education, reduce schoolwork pressure, and standardize off-campus tutoring. In October 2021, the National People’s Congress stated that the “double reduction” should be incorporated into the law to further play the role of the government, schools, and families, and reduce students’ burden of off-campus tutoring [2]. From the aspect of the rule of law, the rights and obligations, institutional arrangements, and discipline systems related to education are reflected in the Chinese Constitution, educational laws and regulations, and departmental rules. However, some drawbacks still exist in China’s education, such as the homogenization of school education under the pressure of exam-oriented education, and more attention paid to exams than quality. Besides, off-campus tutoring shows an abnormal development trend, such as lax qualification examination and approval, unreasonable course content, opaque charging standards, etc.

As for the literature on the “double reduction” policy in China, there are many research results about education, but research on legal perfection is still relatively scarce. Concerning the problems in the policy implementation, in terms of government regulation, governments at all levels pay different enforcement efforts and cannot completely stop off-campus tutoring (Zhu, 2022). [3] As for the off-campus tutoring institutions, some have been disguised to secretly provide schoolwork guidance (Zhang & Cao, 2022). [4] Concerning family responsibility, some parents hire “private tutors”, which increases their children’s extracurricular academic pressure (Yu, 2021). [5] To innovate teaching design, teachers’ work intensity and extracurricular service pressure are doubled (Luo & Zhang, 2022). [6] In addition, there are still some problems in the current education legislation, such as conflicts of interest subjects, insufficient implementation basis for advocacy clauses, inaccurate implementation rules, imperfect relief measures, etc., which limit the governmental function of administration according to the law (Shen, 2021; Deng, 2021). [7]

During the Two Sessions in 2022, some deputies proposed to bring the implementation of the “double reduction” policy into the rule of law and further improve the dual top-level design of “policy + law”, so as to promote the special legislation of the “double reduction” policy and build a perfect law-based management mechanism. [8] Thus, from a long-term perspective, although the current

education is based on the law, if we further improve the systemic guarantee, we should clarify the rights limits and legal responsibilities of each subject to push the legislation into a new stage.

2. Jurisprudential Basis of “Double Reduction” Policy

As an administrative normative document, the “double reduction” policy is closely related to governmental law enforcement. To explore the legalization path of the “double reduction” policy, we should first explain its legal basis and clarify its nature, function, and relationship with the current law.

(1) Conceptual Connotation of the “Double Reduction” Policy

Conveying the will of the country, the “double reduction” policy stipulates various regulatory and governance measures in education, which refines the division of responsibilities of different subjects such as schools, governments, off-campus tutoring institutions, and parents, providing policy guidance for the government to administer education according to law. This policy not only puts forward new requirements for improving the quality of school education, but also makes more precise regulations on off-campus tutoring institutions, which substantially reduces the burden on students and improves the educational environment of school-age children.

The nature of this policy is more like compound supervision means, which contains the governmental law enforcement power. However, it is an administrative normative document, which has not been uplifted to the law, so it cannot be fully regulated by law. The law enforcement of administrative agents is authorized by the laws, but the current laws and regulations do not stipulate education supervision, which leads to problems such as inconsistent supervision standards, inconsistent efforts, unclear responsibilities, and untimely supervision coordination, which fail to eradicate the illegal phenomenon in the education industry. In the absence of legal authorization, the government cannot blindly create rights and obligations for the regulatory objects, which can only exercise administrative power within the existing legal and policy framework.

(2) Function of the “Double Reduction” Policy

The “double reduction” policy not only constitutes an integral part of educational reform, but also provides a critical basis for the supervision and law enforcement of education departments. In policy implementation, this policy plays the functions of education and order management.

1. Educational Function

Under the constitutional spirit, the “double reduction” policy enriches the connotation of the educational right stipulated in the Constitution, which will provide a significant theoretical source for perfecting the education system in the future.

First of all, the “double reduction” policy is conducive to the all-around development of students’ physical and mental health. It not only standardizes and unifies the trend of reducing students’ burden in future education development, but also improves the after-school service. In the pilot work, each region exerts its creativity and forms its educational characteristics, [9] which devotes to providing high-quality and comprehensive education at the same time.

Secondly, the “double reduction” policy is beneficial to stimulating teachers’ creativity and improving teaching quality. Giving teachers more room to exert their teaching ability, this policy improves students’ learning efficiency and promotes the democratization of the teacher-student relationship. Meanwhile, it is beneficial for schools to improve performance appraisal, respect teachers’ teaching styles, and encourage them to participate in democratic school management.

Thirdly, the “double reduction” helps realize education equity. At present, the distribution of regional educational resources in China is uneven with various financial allocations. The ideal goal pursued by this policy is to realize the equality of educational opportunities and call for the revival of high-quality school education. At the same time, it strives for fairness in form and substance, so as to ensure students enjoy educational resources equally without being affected by economic conditions, traditional ideas, and regional information barriers. [10]

2. Order Management Function

The implementation of the “double reduction” policy should adhere to the public welfare attribute of education and the state should regulate the relevant roles of various schools in the public welfare. Before the policy introduction, the mainstream concept of school education was to take exams as the goal, and students were under both pressure in and out of school. Since the development of tutoring institutions as the product of the market, the utilitarianism of capital profit-seeking has eroded the public welfare of education, [11] resulting in uneven quality and different charging standards.

Guided by the “double reduction” policy, local governments actively regulate the illegal opening of off-campus tutoring institutions, which is by no means to shut down and ban thoroughly. Under the current pressure of entering a higher school, it is still urgent for students to receive multi-faceted education. Therefore, behind the management of public order, the governmental rectification essentially aims to guide the healthy development of off-campus tutoring institutions, make them a positive and beneficial supplement to school education, and provide students with diversified choices in compulsory education.

(3) Connection Between the “Double Reduction” Policy and the Law

The legal value of the “double reduction” policy provides a conduct code for the revision of education laws and regulations based on public interests in the future.

According to Article 46, provision 1, Chapter II in Basic Rights and Obligations of Citizens at the *Constitution of the People’s Republic of China*, education has dual attributes as individual rights and obligations. The second provision reflects the value of personal development to society, thus echoing the educational development goals stipulated in Article 19 of the General Outline of the Constitution. [12] Hence, the General Outlook provides institutional guarantee and behavioral goals for education, while Chapter II provides an action basis for the legal relationship between specific subjects, which is not limited to the rights and obligations of private subjects, but also endows the national public authority with certain responsibilities. From this perspective, realizing educational value is the unity of subjective rights and objective value order. Public authorities guarantee individual rights to be educated by implementing relevant regulations, while individuals achieve public goals by observing norms. [13] Based on the Constitution, the value concept conveyed by other departmental laws is that the interests of private subjects should rise to social public interests. It can be seen that the legislative technology of educational laws and regulations takes social value as the core, and then refines the individual content.

From a practical perspective, compared with the emphasis on individual rights in the traditional civil field, as for the education law, the state pays more attention to the formulation of laws, regulations, and policies, and the application of justice and law enforcement, so as to maintain the order of social public values. Because the provisions of the Constitution on the right to education are programmatic and general, others should supplement the values of the Constitution and the interpretation of constitutionality in the implementation. The “double reduction” policy specifies the relevant rights and obligations in the Constitution and departmental laws, which is of positive significance to enrich and develop the educational legal system and promote the interaction between departmental laws and the Constitution.

3. Power-Right Game under the Background of “Double Reduction” Policy

At the initial implementation of the “double reduction” policy, due to the insufficient administrative mode for reference, there is inevitably a game between governmental public power and individual private rights, which is necessary to balance the interests of various subjects.

(1) Problems in the Implementation of the “Double Reduction” Policy

Although the “double reduction” policy has improved the educational environment of school-age children, some practical problems exist in its implementation, which is mainly reflected in the following three aspects.

First of all, the government failed to well regulate the off-campus tutoring institutions. After the introduction of the “double reduction” policy, some governments banned off-campus tutoring

institutions and denied their rationality, which was so strict that curbed the healthy competition in the teaching and training market. Some parents with better family conditions hire private tutors for their children, while low-income ones in small and medium-sized cities in backward rural areas are facing educational difficulties. [14] This phenomenon not only hinders government regulation, but also harms the fair distribution of educational resources.

Secondly, the education quality in schools has not been completely improved. Although the “double reduction” policy has been introduced, the syllabus failed to be simplified, and the standard to measure education quality is still based on students’ achievements in moving to upper-grade schools, which will unavoidably lead some schools to stick to the exam-oriented teaching mode. These schools have fulfilled their obligation to educate students on the surface, but they have ignored the social value behind education.

Thirdly, the government policy lacks direct guidance for family education. Driven by the educational environment and utilitarian psychology, parents are often willing to spend huge expenses on their children’s education. Influenced by homogenization education for many years, parents usually do not pay attention to the new changes in the “double reduction” policy. However, formalism of the traditional exam-oriented thinking impedes the growth of students, which trespasses on private rights.

(2) Limits of Individual Rights

The “double reduction” policy is not to restrict the right to be educated but to improve the public welfare attribute of education. [15] By clarifying the relationship among off-campus tutoring institutions, family education, and government supervision, the room for free choice of education rights can be demonstrated.

Firstly, the “double reduction” policy clarifies the boundary between school education and off-campus education. School education is guaranteed and implemented by the national coercive power, which bears the primary function of education. In recent years, off-campus tutoring institutions have kept pace with school education and many unstandardized phenomena has encroached on the space of public education. The “double reduction” policy not only strictly stipulates their functional scopes and reaffirms the core position of school education, but also emphasizes that schools should be responsible for students’ professional study and that off-campus education took charge of students’ comprehensive development.

Secondly, the “double reduction” policy interprets the boundary between freedom of education choice and government supervision. [16] Although receiving off-campus tutoring is an individual right, the freedom of educational choice should still be placed under national supervision; otherwise, the rational distribution of educational resources by the state and the public welfare attribute of education will be harmed. In addition, the law stipulates that school-age children must receive compulsory education, and the Ministry of Education clearly points out that “it is not allowed to replace compulsory education uniformly implemented by the state by studying at home without authorization”. [17] Therefore, although students can freely choose the way of receiving education, being educated is both a right and an obligation. The state should ensure that students receive formal school education by coercive force and prevent other forms of education from replacing compulsory education.

Thirdly, the “double reduction” policy clarifies the relationship between home and school. The Civil Code of the People’s Republic of China stipulates that parents have the obligation to raise and educate their children. Therefore, parents are obliged to provide their children with educational opportunities, but this does not mean that they can blindly require their children to receive off-campus tutoring and family counseling. The reform of the “double reduction” policy further clears the respective functions between home and school, which makes the tasks that should not be transferred to families return to schools, so as to provide moral education support from family education to school education.

In a word, the “double reduction” policy has better handled the relationship between in and out of the school, the government, schools, and families, thus achieving an organic balance between private rights and public interests.

(3) Regulation Boundary and Supervision of Government Power

“Double reduction” policy that requires government functions intends to safeguard public interests. However, although the government has the role of education management according to law, it still needs to achieve precise administration, scientific management and control. Otherwise, the employment of employees in tutoring institutions and the legal income from their normal operations will affect social stability. [18]

The Chinese Constitution allows all kinds of organizations to set up educational undertakings according to the law and the existence of extracurricular tutoring institutions is legal. However, the “double reduction” policy lacks the corresponding legal effect with vague standards and control boundaries of governmental implementation, so it is difficult to guarantee whether the government will exceed the scope of public power in controlling these institutions or further infringe on the legitimate interests of private subjects. Hence, the government should cooperate with the court to deal with possible legal disputes while making administrative penalties for violations. From the perspective of reality, the insufficient supervision of the “double reduction” policy will lead to a series of social problems. For example, some educational institutions in secret continue to operate illegally, which increases the difficulty of government supervision. At the same time, during the rectification of tutoring institutions, it is not clear whether there is a legal basis for issues such as “transforming institutions from business to non-business” and “changing the filing procedure for trial”.

The above problems not only involve social governance, but also put forward new requirements for the construction of the educational rule of law. There is too much room for illegal operation in vague theory, so we should introduce the “double reduction” policy into the legalization and formulate detailed system norms and implementation rules. In addition, we should establish the guarantee mechanism of rights relief and stipulate the functions and powers of relevant government departments, so that the policy implementation can be law-based.

4. Countermeasures and Suggestions to Improve the Legal Responsibilities of Relevant Subjects Under the Background of “Double Reduction”

In addition to the effective intervention of administrative power, the effective implementation of the “double reduction” policy needs to implement the legal responsibilities of relevant subjects. Besides, apart from promoting the policy content incorporated into the law, each subject should assume its corresponding responsibilities.

(1) Legal Responsibilities of Students, Parents, and the Government

As for building the relationship between students and parents, to better promote family education, the *Family Education Promotion Law of the People’s Republic of China* came into being. Because this law supports families and society to give full play to their subjective initiative, it weakens the excessive intervention of public power. However, it is its many advocacy provisions whose specific implementation details need to be matched with other educational legal provisions that affect the reform of the educational legal system. [19] The author believes that the law improvement can refer to relevant provisions of the “double reduction” policy premised on fully guaranteeing the autonomy of family education. Besides, the legal responsibility for parents’ laziness in exercising guardianship obligations should be refined, so as to further enhance the supervision of relevant social organizations on this basis.

During the law implementation, it should not show its “softness” too much. Therefore, as for the relationship between family and government, the “double reduction” policy should be incorporated into the law. Parents should not only set themselves an example to others and cultivate their law awareness, but also clarify the supervision of government and education departments. Meanwhile, the supervision mechanism of government departments should be standardized through laws to

handle reasonable public demands in time and provide smooth communication channels for rights relief.

As students are the direct beneficiaries after the policy implementation, it is necessary for students, parents, and the government to participate together to reduce students' schoolwork pressure.

(2) Legal Responsibilities of Off-Campus Tutoring Institutions and the Government

Under the "double reduction" policy, the construction of a good relationship between the government and off-campus tutoring institutions should be based on the fact that these institutions give full play to their advantages and the government provides good service and supervision. The author believes that under this policy implementation, the government can make a difference in the following aspects to promote the reform of education legalization:

Firstly, strengthen the governmental regulatory capacity. In addition to improving the entry threshold of off-campus tutoring institutions and strictly examining and approving procedures, we should standardize charging standards and require institutional teachers to "be qualified with professional certificates" to establish an information supervision platform, so that the government can supervise off-campus tutoring institutions that have entered the market more efficiently.

Secondly, improve the ability of the government in law enforcement. Although the "double reduction" policy has put forward relevant requirements for the governmental role in governing off-campus tutoring institutions, it is necessary to further improve the governmental social governance capacity according to the existing laws and conduct a comprehensive investigation of the current education market environment. In addition, the government should strengthen the professional standards of law enforcement personnel and reduce misconduct in law enforcement.

Thirdly, promote the legalization of "double reduction" education. The policy implementation needs to be based on the governmental administration of education according to the law. The government should, according to the provisions of the law, formulate local laws and policies consistent with the locally actual situation, so as to standardize the main body of all kinds of education. Meanwhile, the government should ensure the improvement of education laws and regulations.

As for social education, the *Private Education Promotion Law of the People's Republic of China* stipulates that the state supports and encourages the development of private education, highlights the social attributes of private education, [20] and affirms the equal legal status of private schools and public schools. As a carrier of private education in China, off-campus tutoring institutions belong to the adjustment scope of these laws. However, due to the majority of advocacy provisions of this law and insufficient enforcement, the administrative agents lack the relevant legal basis for implementing compulsory measures in the enforcement of private educational institutions. Given the above problems, the implementation of the "double reduction" policy can effectively make up for the mandatory norms that are not covered in the legal provisions. In this context, on the one hand, the government should fully respect the right to operate independently of off-campus tutoring institutions. On the other hand, the government should guide them in their legal operation. In addition, the government should encourage such educational institutions to participate in social welfare undertakings. [21] Under certain circumstances, some free and high-quality educational resources can be opened to the public.

(3) Legal Responsibilities of Off-Campus Tutoring Institutions and School Education

As for their relationship, the off-campus tutoring institutions are influenced by the profit-seeking nature of capital, they sometimes form an opposite relationship with school education. At this time, it is necessary to adjust their relationship by law, so that off-campus education can be a useful supplement to school education.

One of the focuses of rectifying the "double reduction" policy lies in the improvement of extracurricular education. To promote the policy into the law-based track, first of all, the government should improve the mode of an extracurricular education, such as taking the lead in organizing teachers from schools and tutoring institutions to jointly provide high-quality off-campus services to students. Besides, the establishment of extracurricular teaching system should be strictly reviewed and comprehensively supervised by setting a system of black list and white list. [22] In addition, the

law should clarify the differences between off-campus tutoring institutions and school service orientation, so as to form a benign interaction between the educational subjects in and out of the school. Finally, the government should establish and improve the evaluation system of student service to the main education entities in and out of the school as well as the related relief guarantee mechanism, so as to effectively maintain students' legal rights.

School education under the reform of "double reduction" originally belonged to the scope of school autonomy. However, to improve the protection of teachers' rights, the government needs to use laws and regulations to regulate them at the policy level. As for the specific content of protecting teachers' rights, guiding principles should be formulated for teachers' assessment, and students' scores should not be taken as the only assessment standard superficially. Minimum standards should also be set for teachers' salaries and working hours. From the perspective of schools, the scientific planning of school education should be brought into the construction of education legalization, and the government regulation should be organically combined with schools so that the policy implementation has legal effectiveness. Concerning the governmental supervision of school education, we can establish an intelligent teaching platform, [23] so that the education departments and schools can exchange information effectively in time, which can not only ensure that the relevant government departments collect the feedback information from schools at the first time, but also establish a guarantee mechanism for teachers' legitimate rights and interests.

5. Conclusion

Up against the country comprehensively governed by the law, promoting law-based education is the only way to reform the education system, and incorporating the "double reduction" policy into the law is an imperative step to implement the education driven by the law. Hence, first of all, we should profoundly grasp the basic ideas of the Constitution and fully combine the experience and achievements in various regions of China within the constitutional framework, so as to make targeted arrangements for improving the education system. Secondly, from the aspect of laws, we should clarify the rights and obligations of each subject, which is not only to fully protect the rights and freedoms of related subjects, but also to establish and improve the system of government supervision and evaluation. Meanwhile, the contact between government departments and schools should be strengthened to maintain effective communication between regulatory agencies and schools. Finally, we should formulate relevant measures for relief and protection from the perspective of laws and regulations, so that each subject has laws to observe and violators must be brought to justice.

The "double reduction" policy needs to be fully incorporated into the development of China's legal system to integrate achievements of education reform into China's modern education legal system.

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