



## Legislation for early childhood education: A case study of China

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### ABSTRACT

The purpose of this study is to analyze the legislation for early childhood education (ECE) in China with Kingdon's (1995) multiple streams framework (MSF). Document analysis was used to evaluate academic papers and secondary data to explore the problem stream, the policy stream, the politics stream, the opening of the policy window, and the merging of the three streams suggested by the MSF. The results of these analyses indicated that all the stakeholders were willing and indeed ready for the legislation, and according to the MSF, the law should have been enacted. But the opposite is true, indicating that Kingdon's model should be modified to fit in the case of China: the entrepreneurs are critical to policymaking, but the final decision lies with the ruling party of the country. This is because China is a unique society, which follows the rule by law under the rule of the Communist Party of China. Implications and suggestions are also addressed.

### 1. Introduction

Legislation for early childhood education (ECE) has been rarely studied in the world, as it is supposed to be a purely legal question thus is of no interest to the educational researchers. This, however, might not be the case in China, where legislation for ECE is partly a political and partly a legal question. Since China opened the door to the world in 1978, 'governing the country according to the law' has gradually become the guiding principle of the government and of political reform. This "rule of law" was written into the national constitution in March 1999 and has been followed as a synthetic and fundamental policy in all reforms, including educational reforms (Han & Ye, 2017; Law, 2002). Consequently, the Law of Compulsory Education (6-year elementary plus 3-year junior middle school) and the Law of Higher Education (4-year university) were issued in 1986 and 1998, respectively, to provide the legal basis for the regulation of primary education, secondary education, and higher education in China (Wong & Pang, 2002). However, early childhood education (ECE) for young children (3–6 years old), a fundamental component of the school education system, has not been legislated, resulting in a lack of laws for guidance when problems arise. In addition, the current rules and regulations, which are low in the legal hierarchy, have relatively less binding force and legal authority. As a result, the field of ECE has been extremely underdeveloped in China over the past two decades (Li & Chen, 2017). Therefore, legislation for ECE is urgently needed to serve as the legal basis to solve the problems and to regulate the ECE market in China. This study, for the first time, analyzed the case of China with Kingdon's

(1995) multiple streams framework (MSF) to explore the problems, difficulties, and possible solutions and to provide implications for other societies.

#### 1.1. The evolution of legislation for education in China

As the ruling party of the People's Republic of China (PRC), the Communist Party of China (CPC) became aware of the importance of law to the country and began to shift its basis of leadership legitimacy from a revolutionary mandate to the use of law since China reopened its doors to the world in 1978 (Law, 2002). In 1993, the CPC Central Committee and State Council jointly announced the principle of governing education by law and attempted to establish a legal framework for education by 2000. Deng (1994), known as the general designer of China's reform, proposed a national strategy of changing the mode of state management from the rule of ruler to macro-governance with the law. He also suggested strengthening the enactment and enforcement of the law to such an extent "that there are laws to go by, that they are observed and strictly enforced, and that violators are brought to justice" (*youfa keyi, youfa biyi, zhifa biyan, weifa bijiu*). Accordingly, China also gradually rebuilt the gigantic machineries of lawmaking and law enforcement for education.

The lawmaking machinery comprises the core leadership of the CPC, peoples' congresses, and governments (state, province, and city/county). The Central Committee of the CPC, as a transcendent or extra-legal body, can issue decisions, instructions, or opinions that have 'law-binding effects' on important education policies (Law, 2002).

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Under CPC's supervision and leadership, People's congresses are another type of lawmaking body, of which the National People's Congress (NPC) is the highest, comprising about 3000 representatives elected indirectly from 31 regions (provinces, autonomous regions, and directly administered municipalities) and the army. They have the power to make national laws. When the plenary session is in recess, however, the NPC Standing Committee has the power to amend and interpret laws. Governments of all levels (except villages) are the third type of lawmaking body. Since the revision of the Constitution in 1982, the State Council has the power to make three types of administrative regulations. They are (1) regulations to reinforce the implementation of the laws passed by the NPC, (2) measures and regulations at the management, technical, or operational levels to standardize the administrative structure and procedure for the government, and (3) rules in the areas outside its regular constitutional functions and powers over which the NPC has delegated legislative power.

With the promulgation of the Educational Law of the People's Republic of China in 1995, China formally entered the era of governing education by law (Pang & Wei, 2001). Its legislation for education is under constant enrichment and improvement; therefore, rules and provisions for early childhood education are also included among its laws and regulations. National laws include (1) the Constitution of the PRC and Educational Law of the PRC, which established the fundamental principles of ECE; (2) the Teachers Law of the PRC, which set forth specific rules and regulations for teachers, including ECE teachers; and (3) other laws like the Law of the PRC on the Protection of Minors, which devoted two chapters to the protection of children's lawful rights and interests, and the Law of the PRC on the Protection of Disabled Persons, which ensured disabled children's equal right to ECE. Administrative regulations include the (1) Regulations for the Management of Kindergarten, enacted by the National Education Committee in 1989, which focused on development for children, valuing children's diversity and inclusive curricula (Corter, Janmohammed, Zhang, & Bertrand, 2007). However, implementation became a problem when the social context changed over the years; (2) the Ministry of Education's Guidelines for Kindergarten Education (trial edition), 1989 and 2001, to help ECE to fit into the new context; (3) Opinions on Reform and Development of ECE from the Departments Including the Ministry of Education, enacted in 2003 by the State Council, which emphasized ECE reform and used a 5-year blueprint from 2002 to 2007; and (4) the Ministry of Education's Regulations and Procedures of Kindergarten Work, from 2016, the most comprehensive and up-to-date nationwide administrative policy about the management of kindergarten, which includes but is not limited to application and approval processes of kindergarten establishment, rules for education, and administrative work for kindergarten. The abovementioned laws and regulations have provided fundamental principles and practical implementation rules for ECE in China. Accordingly, great advances have been made in China's ECE in recent decades, although they have been coupled with serious problems. However, with the changes in the social context, a specific nationwide law for ECE in China is urgently needed especially when various problems arise.

### 1.2. Legislation for early childhood education in China

Legislation for ECE in China has been highly prioritized and theoretically explored by Chinese scholars since the turn of new millennium. For the first time, Li (2000) claimed that legislation for ECE was needed for the 21st century because the existing education structures could not catch up with the ever-changing educational practices, and such conflicts rely on legislation to resolve. Pang and Wei (2001) promoted the idea of legislation for China's ECE in the paper "Legislation of China's Pre-school Education: An Important and Realistic Subject," which aimed to solve the disorder of the development of ECE with legislation. They depicted the status quo of China's ECE development, such as the public's underestimation of the importance of ECE, the lack of

comprehensive planning for ECE development, the lack of an exclusive leading government department for ECE, and low salaries and lack of professional development for ECE teachers. They noted that the laws and regulations of the time could neither regulate the new relationships nor solve the new problems, and argued that the legitimate rights and interests of children and teachers should be further ensured. Based on the status quo and experiences from other countries' ECE legislation, they outlined a preliminary framework for the Law of China's ECE, which laid the foundation for future ECE policymaking studies. Pang, Hu, and Hong (2002) later considered the current development of China's ECE more deeply in "Problems and Suggestions for China's ECE Development." They acknowledged that the problems with China's ECE status quo raised in 2001 still existed and reiterated the importance of legislation for ECE.

In 2010, Pang and Han reiterated the existing problems and obstacles and stressed that the lack of a specific law for ECE had greatly hindered China's ECE development. They also analyzed the social, economic base, and major aspects of China's ECE legislation. In 2012, Pang analyzed the background and highlights of the Professional Criteria for Kindergarten Teachers enacted by the Ministry of Education. Pang's analysis greatly helped the public to understand the criteria and enabled better implementation. Pang and Xiong (2013) commented on China's evaluation index system for ECE, which includes the educational scale, teaching staff, educational expenditures, and kindergarten environment, noted some drawbacks of the system, and offered some suggestions for improvement. In 2014, with lessons from countries like the United States, the United Kingdom, and France, Pang and her colleagues (Pang, Sun, & Xia, 2014) stressed the importance of fair ECE and the role of government in making policies to ensure fair education. Pang and her colleagues studied various aspects of China's ECE and policymaking, which have greatly advanced the progress of preparing China for the ECE legislation.

Meanwhile, other Chinese scholar such as Zhu and Zhang (2008) critically reviewed the historical context and the development and the reform of China's ECE. Li (2009) discussed whether ECE could be compulsory in China so that it could be regulated in the context of compulsory education. Although considerable research has indicated the importance of legislation for China's ECE as mentioned above, the expected has not yet come to pass. Many factors from a social context interweave and contribute to this delay, which can be systematically examined using Kingdon's (1995) multiple streams framework (MSF). The MSF has been extensively used to guide research in the educational domain and to analyze the national-level educational policymaking process in the United States, such as examining the definition of "gifted students" in New Mexico's Public School Reform Act of 1986 (Holderness, 1992), a student cultural diversity and gender fair (Stout & Stevens, 2000), teacher tenure reform (Elrod, 1994), school sports and physical education (Houlihan & Green, 2006), school reforms in the Chicago School Reform Act (1988) (Lieberman, 2002), and a state's attempt to decentralize higher education (McLendon, 2003).

However, the MSF has not been used to analyze educational policymaking in China, especially in the analysis of ECE legislation. Notably, ECE legislation in contemporary China is complicated and multifaceted and thus deserves a structured and comprehensive framework. King (1994) suggested that the MSF is popularly used to analyze the dynamic and complex policymaking process from a theoretical perspective. Therefore, this paper attempts to bridge the gap between the rising call for the legislation for China's ECE and the use of the MSF and to validate the feasibility of ECE legislation under this theoretical model. Accordingly, the following research questions guided this study:

1. What major problems have arisen out of the lack of ECE legislation? (problem stream).
2. What existing solutions to the identified problems have been proposed by scholars and experts? (policy stream).

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