

California's War on Homeschoolers

by Steven Greenhut

I'm routinely astounded by the degree to which Americans will be outraged by government abuses that take place in far-off lands, while remaining uninterested in similar abuses right here in their very midst.

My newspaper, the *Orange County Register*, last October featured a series on an issue that has sparked an "international outcry." It is a serious and outrageous issue—the plight of millions of underground Christians, described in the series as "one of the fastest-growing groups in China, regarded by the government as a threat to control and stability."

The articles tell harrowing tales of average Chinese people risking jail sentences for the "crime" of "running illegal Bibles, tracts and recordings to safe houses and underground churches." These Christians aren't directly challenging the government's authority, but their mere presence worshipping together in house churches is enough to spark a heavy-handed official backlash.

While this story is playing out, another one has received little coverage in the California media. Last October 10 the *Los Angeles Times* printed a story on the front cover of an inside section, which was blandly titled "State Puts Parents on Notice."

On notice for what?

On notice that state bureaucrats insist that homeschooling one's children is a crime, and that those who keep on doing it should face jail time and perhaps have their children taken away from their families by Children's Protective Services.

The law doesn't appear to be on the bureaucrats' side, and state officials don't have the authority or resources to put homeschool parents in jail, as much as they would like to do so. But one would think it would merit more attention when the top education officials in the state have announced plans to crack down on what should strike most of us as a basic freedom—the right to educate one's own children as one pleases.

Not to put too fine a point on it, but the thought of underground Christians meeting secretly in homes to worship under threat of arrest isn't all that different from the thought of underground homeschool parents teaching their kids secretly at home under the threat of being arrested and losing their children.

Yet where are the outraged people, aside from those who are homeschooling their children, and where are the demands from the legislature and Congress for action?

They are nowhere to be found, given that few Californians, or Americans from any place, question the authority of the state to decide where our children are educated and under what circumstances. Even conservatives who defend homeschooling rarely question the compulsory-attendance laws that make this bullying possible.

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There are no new legislative or court-imposed restrictions on homeschooling in California. What has changed is the willingness of the state Department of Education (DOE), under the leadership of a left-wing ideologue, to use whatever opportunities present themselves to harass, intimidate, and frighten parents into sending kids to public schools or to private schools that have been approved by the state.

The state education code does not expressly allow or restrict homeschooling. In fact, it doesn't mention it directly at all. But California Education Code Section 48222 explains: "Children who are being instructed in a private full-time day school by persons capable of teaching shall be exempted" from compulsory education laws. (Note the words "capable of teaching," rather than "having a teacher certification.")

So California parents have done what homeschoolers do in 11 other states that don't expressly recognize homeschooling. They simply have registered themselves as private schools, albeit ones with one or two teachers and students. For years, these parents have dutifully filed private-school affidavits with their local county departments of education, and rarely if ever did anyone bother them.

Despite the lack of a state law directly approving homeschooling, other aspects of the state education code make it clear that the legislature approves of parents' operating home schools as private schools.

"'Private school' is not defined anywhere in the statutes, nor are private schools limited or described in terms of number of students, location, size of facilities, or relationship of students to teachers," wrote Michael Smith, president of the Home School Legal Defense Association, in a recent letter to the California legislature.

Implicit Recognition

Furthermore, Smith wrote, a subsection of the education code carves out certain exemptions for private schools from a law requiring teachers to submit fingerprints to the Department of Justice. Exemptions include

"a parent or legal guardian working exclusively with his or her children."

Only someone with an ideological axe to grind could find illegality in the practice of homeschooling.

Unfortunately, since the early 1990s, the DOE has been grinding away. The axe has gotten sharper in recent years, now that Democrats have an iron-clad grip on both houses of the legislature and control nearly every statewide office. In recent months, the department has more vocally declared its long-standing policy that homeschooling is illegal, unless the parent holds a state teaching certification or the homeschool comes under the control of a local school district.

In fairness, the DOE has limited authority, and locally district attorneys generally lack the desire or the resources to go after law-abiding citizens who are homeschooling their children. But in some places in California, such as Berkeley, authorities have tried to crack down on homeschooling, although they ultimately have been unsuccessful.

The DOE might not really think that it will succeed at cracking down on home schools, but some critics believe the intent is harassment—to scare some parents away from choosing to homeschool their children.

That's the likeliest scenario.

The current controversy was caused by a seemingly small change in an administrative procedure. With the support of some major private schools, the DOE last year changed how private schools file their paperwork, making them file directly with the state online rather than through local county departments of education. Ostensibly, the change would make the papers easier to file.

"The major problem that could develop over the next couple of years is in follow up by the counties or local school districts after the affidavits have been filed with the state," wrote the Home School Legal Defense Association in a message to its members. "Counties and school districts will increasingly be encouraged by the State Department of Education to go beyond their legal authority to simply verify the filing of the affidavit during the investigation of an allegation of truancy."

Well, yes. Anytime a state agency, especially one that has declared homeschooling illegal, wants to centralize the paperwork process for certifying private schools, then there's definitely a problem brewing.

The matter garnered public attention after then-Superintendent of Public Instruction Delaine Eastin sent a letter to district and county school officials explaining the new private-school filing procedures. It included this legal-sounding explanation of homeschooling: "As generally understood, the term home schooling describes a situation in which non-credentialed parents (that is parents who lack a valid California teaching certificate) teach their own children, exclusively, at home, often using a correspondence course or other types of courses. Defined in this way, home schooling is not authorized in California, and children receiving home schooling of this kind are in violation of the state's truancy laws."

Parents panicked. The situation became publicized on WorldNetDaily, and the e-mails began flying. But rather than back away, or soften her stance, Eastin became more defiant. She penned a letter to the *Register*, which had published articles criticizing her view, reiterating the department's position: "The classic 'home school'—where children are taught by their parent who does not have a teaching credential—is not a legal means of complying with compulsory education law, which means that homeschooled children are truant."

The Forbidden and the Allowed

In totalitarian countries, anything not expressly allowed is forbidden.

In America, the reverse is supposed to be true. Unless something is specifically forbidden (specifically, behaviors that violate other people's rights), it is supposed to be allowed.

Yet because California law does not expressly say "home schooling is legal," the education establishment insists that it really is a banned activity.

What country do we live in? North Korea?

The ensuing brouhaha gave Eastin the pre-

text she had been looking for to push the legislature to restrict homeschooling. She wrote a letter to the legislature blaming aggressive homeschool organizations for creating a furor and for encouraging parents to illegally designate their homes as private schools.

"Over the last few weeks, the Department of Education has been characterized in some circles as being engaged in a campaign to harass homeschoolers and to root out homeschooling in California," she wrote to legislators. "None of these charges is true, of course, but the amount of misinformation, and passion, in these communications does make me believe that the situation cries out for a legislative solution."

That legislative "solution" was not spelled out, but it's not hard to understand what she wants. In the letter Eastin complained that "Home schools are not even subject to competition from private schools, where the marketplace would presumably ensure some level of quality and innovation."

That is utterly galling. The state's top advocate for educational socialism is lecturing the legislature on the need for market reforms to ensure that home schools function properly. It's as if Fidel Castro lectured the Cayman Islands on the need for market competition in the banking industry.

Fortunately, even the Democrats who control things didn't want to touch this one in an election year. Although homeschoolers would benefit from a real legislative solution—a law that explicitly made homeschooling legal—they don't want to open this issue in the left-wing legislature. They know they are likely to get something much worse. The law allows homeschooling, they argue, so let sleeping dogs lie.

Superintendent Eastin was term-limited out and replaced by Jack O'Connell, a former state senator with a similar ideology. That leaves Californians with the current, tenuous home-school situation. Yes, California law is on the side of homeschoolers, and the courts have eventually rejected efforts by a few zealous DAs to prosecute homeschoolers as truants.

Still, the situation is unsettling, given the ideological situation in the DOE. At any

time, a vindictive or nosy neighbor can turn homeschool parents in, just as it's done in Cuba, and Children's Protective Services (CPS), the police, or other authorities, under the auspices of the DOE directive, could be snooping. Parents probably will win any court battle in the end, but how many parents want to endure that grief?

Understaffed Agencies

The *Times* article makes a couple of points that conservatives in particular ought to consider:

First, the only thing standing between homeschoolers and a truancy charge in some areas is that many school districts and law-enforcement agencies perceive themselves as underfunded, understaffed, and overburdened. Consider that the next time some pro-law-and-order politician wants to put more cops on the street or fund a bigger CPS budget. What will those extra officers or social workers do with their time? They'll look for new targets of course, and homeschoolers could be on the list.

Second, some of the new attention on homeschoolers in California is at least partly the result of new guidelines coming from the federal government, under the Bush administration's repugnant "No Child Left Behind Act." This federal legislation pushes state school officials to get higher numbers of teachers credentialed, and homeschool teachers may be an easy target.

Ironically, while school officials complain that parents shouldn't teach their own children if they aren't credentialed, about 40,000 of California's 300,000 public-school teachers lack credentials. I don't see Eastin wanting to shut those schools down.

"A credential doesn't mean someone teaches well," said Lance Izumi, an education policy expert for the free-market Pacific Research Institute in Sacramento. The principals he works with prefer teachers without credentials, because they are not brain-

washed by the statist propaganda that is the foundation of a modern ed-school degree.

In California, even education officials admit that homeschoolers are not truant in the normal sense of the word. If there are cases of parents pretending to homeschool their kids, but really not teaching them at all, I'd love to hear about them. They simply don't exist.

In reality, an estimated 100,000 California students have parents wise enough to try to save them from the indoctrination centers known as public schools. That's what sticks in the craw of school totalitarians such as Eastin.

California public schools have test scores toward the bottom of the nationwide heap, explains Izumi, and more than half of students cannot pass high-school exit exams, which is sparking efforts continually to dumb down those tests. Meanwhile, everyone sees the success of homeschoolers at top universities and even spelling bees.

It's an embarrassment, given that public schools in California spend more than \$9,000 a year to educate a single pupil, while parents spend a tiny portion of that amount.

"Eastin doesn't have any hard evidence that home-schooling is linked to low student achievement," Izumi added. "In fact she doesn't want any tests. She knows there will be a positive link between home-schooling and achievement. It's just a control issue for her. And it's a question of money. She wants her ADA (average daily attendance) dollars."

Of course, California educators should just leave homeschoolers alone. But just like the Chinese officials, who are more interested in cracking down on home churches than tending to their problems, California educators have adopted a totalitarian mindset that cannot tolerate one flower blooming on a barren landscape.

Nothing will change until more Californians spend a little more time getting outraged at what's going on here, and let the Chinese worry about their own country. □