

ONE NATION'S SELF-DISCIPLINE: VARIATIONS OF CHINESE POPULATION FROM ANCIENT SUPPORTIVE POLICIES TO THE CURRENT ONE-CHILD POLICY

J.D. Dong Zichang*

SUMMARY: *Preface. 2 Traditional Chinese Family Culture and Historic Population Trends. 2.1 Traditional Chinese Cultural Views of Family and the Freedom of Family Members. 2.2 Traditional Chinese Philosophy Regarding the Family and Population. 2.3 Historic Population Trends Pre-1949. 2.4 The End of the Chinese Traditional Family the Impact of Current Government and Modern Civilization. 3 The Introduction of the One-Child Policy. 3.1 Background and Initial Reasons for the One-Child Policy. 3.2 Chinese Family Planning Policies from 1962 to 2015. 3.3 Chinese People's Perspectives on the One-Child Policy: Attitudes Obedience, Punishment and Reward. 3.4 The Influence and Effects of the One-Child Policy from 1980. 4 The Relationship Between the One-Child Policy and International Human Rights Law. 4.1 One-Child Policy and ICCPR, CRC and CEDAW. 5 Conclusion and the Future of the One-Child Policy. Reference.*

SUMMARY: Most international scholars think the one-child policy is the entirety of China's family planning policy. Such thinking is completely wrong. Actually, the Chinese government never officially called its Population Planning Policy the "one-child policy." Its official name is the Chinese Family Planning Policy. The Chinese Family Planning Policy remains a basic national policy position in China. It has changed and evolved over time. The one-child policy is only a central rule of Chinese family planning policies from 1980 to 2015. Start from 2015, the Chinese government had already changed the one-child policy, and China has entered a new era of two-child policy.

KEY WORD: One-child policy; Chinese Family Planning Policy; Chinese government; International Human rights Law; ICCPR; CEDAW and CRC.

* Suny, University at Buffalo, Law Master of Case Western Reserve University, Law Bachelor of Chinese South West University of Politics and Law. E-mail: zichangd@buffalo.edu

PREFACE

The conflict between limited environmental resources and fast-growing populations is a critical problem to be solved in the modern world. It is one of the main arguments for restricting the population growth of developing countries with already large populations. Although many countries have noticed that this is a serious problem, almost none of them have tried to austere restrict their population growth rate, with the exception of China.

At the start of the 1980s, much of the world was surprised to find that China had begun to restrain its population growth rate. China's "one-child policy" began around the same time as the country's economic reforms. With the huge development and growth of the Chinese economy, the one-child policy also attracted increasing attention and discussion from international scholars and politicians. Most international scholars think the one-child policy is the entirety of China's family planning policy. Such thinking is completely wrong. Actually, the Chinese government never officially called its Population Planning Policy the "one-child policy." Its official name is the Chinese Family Planning Policy. The Chinese Family Planning Policy remains a basic national policy position in China. It has changed and evolved over time. The one-child policy is only a central rule of Chinese family planning policies from 1980 to 2015.

The first part of this paper is a brief introduction to traditional Chinese family culture and historic population trends before 1949 (i.e., before the founding of the People's Republic of China). It will discuss the traditional Chinese family before analyzing modern family planning policies. The traditional Chinese family will be examined from the perspectives of Chinese traditional culture and philosophies. The paper will also paint a picture of the basic state of Chinese population growth rates before 1949. This section concludes with an analysis of the impact that modern society and the current Chinese government have had on traditional family culture.

The second part of this paper discusses population trends and the context that led to the development of the modern family planning policy. The first part discusses how the Chinese population grew from 1949 to start of the Chinese family planning policy, and it will give a brief introduction to the population situation during that period. This analysis will include a large amount of statistical data. After discussing the basic population situation in the period before the start of the family

planning policy, the paper will analyze how Chinese family planning policies were influenced by this period's population growth and population condition. The final section of this part will discuss the influence and effects of China's family planning policies with an analysis of relevant statistical data.

The third part of this paper discusses the relationship between China's family planning policies and international human rights law. This part discusses China's family planning policy's potential failures to protect human rights from the perspective of international human rights treaties that are recognized or joined by the Chinese government, which mainly refers to the treaties of ICCPR, CEDAW and CRC.

The final part of this paper discusses the possible future of China's family planning policies. As the Chinese population structure and growth rate become similar to those of developed countries, should the Chinese government still strictly apply its family planning policies? Has this policy become outdated? What is the possible future for reformation and change of China's family planning policies?

2 TRADITIONAL CHINESE FAMILY CULTURE AND HISTORIC POPULATION TRENDS

For a long time, Chinese traditional family culture was an important factor for maintaining the social stability and agricultural economic development of ancient China. It also deeply influences the modern Chinese family and the current Chinese government's family planning policies. Ancient Chinese thought regarding the family is the epitome of their thought regarding the country and political structure. Chinese family culture is male-dominated. This male domination element in Chinese traditional family culture became stronger and stronger with ancient China's historical development. Chinese traditional family culture is the product of a powerful agricultural economy in ancient China. Under the influence of this culture, ancient China formed a unique population condition, which in turn deeply influenced the development of the agricultural economy. However, both the traditional agricultural economy and traditional family culture have suffered a huge blow due to the rise of modern civilization and the formation of the current Chinese government.

2.1 TRADITIONAL CHINESE CULTURAL VIEWS OF FAMILY AND THE FREEDOM OF FAMILY MEMBERS

Traditional Chinese family thought can be sketched as “Gang Chang” or “San Gang Wu Chang”.⁰² It contains two separate parts, “San Gang” and “Wu Chang”. “San Gang” means three basic cardinal guiding rules for all Chinese families, which are: the vassals obeying the emperor in whole country, the sons obeying their father in every clan, and the wife and concubines obeying their husband in every family. “Wu Chang” means five basic characteristics for all heads of Chinese families to abide by, which are benevolence, righteousness, courtesy, wisdom, and faithfulness. All ancient Chinese male citizens must do their best to keep these five characteristics as their standard of behavior for treating their family members and other persons. “San Gang and Wu Chang” was a standard of conduct based on moral and ethical principles to regulate all issues which happened not only in private families but also in society as a whole.

This family thought was proposed by Dong Zhongshu, who was the most famous Confucian scholar during the West Han Dynasty. His theory originated from the family thought of the Duke of Zhou, also called Zhou Gong Dan, and the family thought of Confucius. Dong Zhongshu took and summarized the Duke of Zhou’s theory of “People should respect and obey their honourable King in their kingdom, and people should love and obey their fathers in their families”⁰³ and Confucius’s theory that

the appearance of the couple relationship comes from the distinction of male and female, the appearance of father and son relationship comes from the establishment of couple relationship, the appearance of king and vassals relationship comes from the creation of father-son system, the appearance of social class system comes from the relationship of king and vassals, and the appearance of social order comes from the creation of social class system.⁰⁴

⁰² The concept of “San Gang” and “Wu Chang” was first mentioned in the book of “Ch’un-ch’iu fan-lu” by Dong Zhongshu in West Han dynasty at around 145 B.C. Dong Zhongshu (董仲舒), Ch’un-ch’iu fan-lu (春秋繁露), (c. Zhongshu in West Han dynasty at around 145 B.C. Dong Zhongshu (董仲舒), Ch’un-ch’iu fan-lu (春秋繁露), (c. 145 B.C.E.).

⁰³ This is the core rule of Zhou Li which was created by Duke of Zhou as the basic governing regulation in Zhou Dynasty. Duke of Zhou (周公旦), Zhou Li (周礼) (c. 1022 B.C.E.).

⁰⁴ This theory is proposed by Confucius in the book of Zhou Yi, Xu Gua. Confucius (孔子), Zhou Yi, Xu Gua (周易.序卦) (c. 483 B.C.E.).

Under the basic family thought of “San Gang and Wu Chang”, Dong Zhongshu and the posterity of Confucian scholars successively created an absolute male dominated family culture system. The male domination element in the ancient Chinese family culture system became increasingly strong throughout history. It also promoted the mixture of country politics and private family life. Finally, the Confucian scholars and Chinese landlord class finished the construction of “Family-Country”,⁰⁵ which means that the emperor or the society’s ruler should rule the country similar to the way they would rule their families and they should treat the whole country’s people as their families’ children. It closely tied private families with to the dynasties’ politics.

According to these politics and family culture thought, the male family head, normally referring to the father or elder male family member, had absolute authority to govern his family. All female members were deemed appendages of this family. The male offspring were deemed vassals of the male family head. All family members should obey and respect the head of their family. All family heads must love and be merciful to their family members. Male descendants were thought of as the only method to inherit and continue their families without being cut off. The female descendants would be deemed more like the families’ precious property. Only the male descendants can inherit all the families’ property and continue the families’ last name and lineage. The emperor was deemed the head of all ancient Chinese families. All people in ancient China must obey and respect the emperor, similar to the way they would obey and respect their own family’s head. The emperor should also be a model of mercy, to love his people the same as his own family members. Thus, the entire ancient Chinese world, including some Chinese vassal states (like ancient Korea), were considered one huge family. All families’ members, families, and the country are tightly connected by filial piety and benevolence which are the most obvious represent characters of “Wu Chang”.

Under the powerful inference of traditional Chinese family culture, almost all ancient Chinese families hoped to birth more male descendants in order to enlarge and continue their families. It directly caused the people to form the idea of “the more male descendants, the more happiness” in ancient Chinese folklore. The phenomenon of the widespread tale of King Wen of the Zhou Dynasty having one

⁰⁵ This concept was first mentioned in the book of Li Ji. Li Yun is also another of the Confucian Classics. Dai Sheng (戴圣), Li Ji. Li Yun Pian (礼记.礼运篇) (c. 35-20 B.C.E.)

hundred sons,⁰⁶ which was frequently depicted in paintings, sculptures, porcelain prints and Chinese Spring Festival paintings, demonstrates how this idea of hoping to have more sons is a firmly held belief of the ancient Chinese people. The common idea of “the more male descendants, the more happiness” is also one of the reasons the male landlord class sought to own more concubines to increase their birth rate of male descendants. Also, from the Zhou Dynasty onward, almost all Chinese dynasties would encourage their people to bear more male descendants, not only to follow these cultural norms regarding the family, but also to obtain a larger labor force and tax base.

The ancient Chinese birth rate was very high due to the desire of families to have male heirs. Most Chinese male landlords were keen on taking more concubines, thus most Chinese male landlords' family structures were a monogamous marriage to one wife while also owning several concubines.⁰⁷

The basic principle regulating family members' freedom also originated from the traditional family thought of “San Gang” and “Wu Chang”. Under this philosophy, ancient Confucian scholars and landlord-class officers designed a male dominated family culture system to govern all the members of all families, which meant that children and female family members' freedom was very limited. The restrictions on those family members became increasingly strict as the male domination element of the ancient family system became increasingly strong.

There was a specific principle to regulate female member's freedom, called “San Chong and Si De”⁰⁸ which evolved from the traditional family idea of “San Gang” and “Wu Chang”. It gave a more detailed explanation of how to apply the context of “the wife and concubines obeying their husband in every family” in “San Gang” family thought. It listed three basic guiding rules for practicing the idea of “the wife and concubines obeying their husband in every family”, which are: the female family members should respect and obey their fathers when they didn't marry; after they married, the female family members should respect and obey their

⁰⁶ The tale of King Wen of Zhou Dynasty owing one hundred sons was first mentioned in the book of *Shi Jing*, *Da Ya*, *Si Qi* as a collection of aristocratic poetry. Compiled by Confucius (孔子编撰), *Shi Jing*, *Da Ya*, *Si Qi* (诗经, 雅, 思齐) as a collection of aristocratic poetry. Compiled by Confucius (孔子编撰), *Shi Jing*, *Da Ya*, *Si Qi* (诗经·大雅, 思齐) (c. 6th century B.C.E.)

⁰⁷ It means the husband would legally only be allowed to have one wife and also be permitted to own more than one concubine at the same time

⁰⁸ This theory was first proposed by the Confucian scholars in the period of Qin and Han Dynasties. It was first found in the book of *Yi Li* which was compiled by Gao Tang Sheng in the West Han Dynasty. Compiled by Gao Tang Sheng (高堂生编撰), *Yi Li*, *Sang Fu*, *Zi Xia Zhuan* (仪礼·丧服·子夏传) (c. 190 B.C.E.)

husbands; and when their husbands died, the female family members should respect and obey their sons. In fact, this theory was popularized and strictly implemented over the course of Chinese history. Under this theory, the female family members had little to no freedom. All their activities or decisions must be approved by their fathers or husbands or sons. This already limited freedom became even worse over time. From the Wu Dai Period (a long warlord period after the Tang Dynasty), males started to force females to bind their feet⁰⁹ to increase their control over their female family members and increase their power over the scope of women's activities.

The restrictions on children's freedom was mainly embodied in who had the right or authority to dictate marriage. In ancient China, the family heads held the absolute authority to decide their children's matrimonial candidate. This traditional regulation was called "Fu Mu Zhi Ming, Mei Suo Zhi Yan". It means that all marriages without the permission of the couple's fathers and without the introduction and recommendation of a matchmaker were illegal and contemptible.¹⁰ This marriage system also evolved from the traditional family thought of "San Gang". At the same time, ancient Chinese dynasties also designed and passed several serious criminal statutes to prevent children from violating their parents' orders and to strengthen the family head's authority to control and limit their children's freedom. During the Tang dynasty, the Chinese government deemed impious actions against one's parents and one's beating or murdering of one's parents as two of the ten most serious crimes.¹¹

The highest criminal punishment for these two crimes was "Ling Chi," which means putting the offender to death by dismembering his body.

The general freedom of children and female family members was strictly limited and controlled by the family head. But at the same time, the family heads

⁰⁹ Foot-binding was a vile feudal practice which crippled women both physically and spiritually. The women began binding their feet at a young age. This kind of practice started during the Wu Dai Period. But it became popular during the Song Dynasty and it reached to its peak during the Ming and Qing Dynasties. Ancient Chinese scholars and literati usually liked to use poetry to praise how beautiful the bound feet of women were. For example, Su Shi, who was a famous literati during the Song Dynasty, wrote a poem called "Pu Sa Man" to praise the beauty of the bound feet of women.

¹⁰ This marriage thought was first proposed by Mencius in his book of "Meng Zi". Mencius and his students (孟子与其弟子), Meng Zi. Teng Wen Gong Xia (孟子.滕文公下) (c. 290 B.C.E).

¹¹ The detailed ten most serious crimes usually changed with the Chinese dynasties. But the crimes of people's impiety against their parents and people's beating or murdering their parents never changed and always were among the ten most serious crimes. These ten crimes were first written in ancient Chinese criminal statutes during the Sui Dynasty. Wei Zheng (魏征), Sui Shu. Xing Fa Zhi (隋书.刑法志) (c. 629 C.E.). But the common application of these ten serious crimes was from the Tang Dynasty and also was written into the Tang Dynasty's criminal statute which is "Tang Lv Shu Yi". Zhang Sun Wu Ji and other Tang dynasty officers (长孙无忌以及其他官员编撰), Tang Lv Shu Yi (唐律疏议) (650 C.E.)

had to obey some general rules for treating their family members, rather than acting willfully. These guiding rules almost all originated in “Wu Chang” thought, just like how the family heads must love and be merciful to their family members.

2.2 TRADITIONAL CHINESE PHILOSOPHY REGARDING THE FAMILY AND POPULATION

Most of the main schools of philosophy in ancient China were consistent in regard to their concepts of population growth and reproduction. Generally speaking, most of these ancient Chinese schools of philosophy advocated for increasing the population and implementing population growth policies, and for philosophies regarding family, most of these schools of thought advocated for using regulations (especially focusing on criminal law) or ethical or moral beliefs to maintain the families’ stability and orderly hierarchy.¹²

However, the specific starting points and basic reasons for encouraging population growth advocated by these ancient schools of philosophy and their understanding of how to proliferate populations were not consistent. Within all ancient Chinese schools of philosophy regarding the family and population, there are four main schools of philosophic thought which had the greatest influence on later generations. These are: the Confucian view of population based on moral concepts; the Taoist population theory based on the view of nature; the Mohist population theory based on the concept of rebirth; and the population theory of the Legalists based on the concepts of farming and fighting.¹³

Confucian thought regarding population and family sought to form an orderly hierarchical system for both the private family and the entire ancient Chinese society based on the principle of “San Gang” and “Wu Chang”. Confucians believed this stable society and family to be necessary for promoting population reproduction. In addition, Confucian population and family thought also tried to use the principle of “Wu Chang” as a basic moral standard to restrict the behaviors of the ruling class and induce them to implement a policy of benevolence to create a “mild” environment to improve population growth rate. These Confucian philosophies about the family and population were originally proposed by Confucius, Zeng Zi and Mencius. Confucius and Zeng Zi proposed that “the size of the population is

¹² Liu Wen (刘韞), *Xianqin Zhuzi Renkouguan Lvelun* (先秦诸子人口观略论) (1995).

¹³ Id

an important criterion to measure whether the country is in good governance and the declining and decreasing population in one country is the omen of that nation's decay"¹⁴ and "to prevent the decay of population size, the dominators or kings must care about whether their policies, regulations and their own behaviors can meet the "Wu Chang" moral standard. And only policy of benevolence can keep the growing rate of population and attract more population to settle down in this nation."¹⁵ As for Mencius, he directly attached the problem of whether a male person has son with basic personal moral standards. He proposed that "there are three basic impiety actions and having no male heir is the gravest of the three cardinal offences against filial piety".¹⁶ Mencius directly used moral standards to encourage people to have more children. As Confucianism became the primary theory for governing the country in later Chinese dynasties, the Confucian philosophy regarding population and family also became the main principle to guide later dynasties' population issues and policies.

Taoist philosophy regarding the family and population tried to promote the population growth rate through natural means and noninterference from the government. Noninterference from the government means that the country's rulers should refrain from greed and extravagant desire, reduce people's excessive cravings, avoid frequent expansion wars, and keep taxes low in order to achieve social stability and form a placid environment to promote population growth. As mentioned by Lao-tzu in his book, "I [the rulers of the society] rule nothing, the civilians can solve any problems by themselves."¹⁷

Based on Taoist ideas regarding population, natural adjustment and noninterference from the government, the Taoist philosophers also proposed a kind of ideal social status: "small territory and population". Its creator, Lao-tzu, stated in his book,

The ideal state is that the land is small and the people are very few¹⁸; there are no conflicts and disputes; even if there are weapons in the state, these weapons never have chance to be used; there are no tyrannical tyranny; and the state's people

¹⁴ Confucius and his student Zeng Zi (孔子及其弟子), Liji. Daxue (礼记.大学) (c. 3d-4th century B.C.E.).

¹⁵ Id

¹⁶ Mencius and his student (孟子及其弟子), Mencius. Lilou Shang (孟子.离娄上) (c. 290 B.C.E.)

¹⁷ Lao-tzu(老子), Tao Te Ching. Chapter Fifty-seven (道德经.第五十七章) (c. 500 B.C.E.)

¹⁸ Here "the land is small and the people are very few" can be understood as the whole of ancient China should be divided into many little states, and each state's land should be small and its population few

would care about their lives and do not have to migrate far away. Even ideal state should be in the status that although there are ships and horse-coach, people have not chance to ride. And there is also no chance to use the armor to defend the enemies. The ideal state status would bring people back to the era of using knot to record issues. Under this kind of ideal status, everyone in the state would be quiet and few desires; although they eat coarse food, they still feel very sweet; although people's clothes are worn, they still feel these clothes are beautiful; although people live in shabby rooms, they still feel the rooms are comfortable; although the social custom is frugal, people would still feel that the life is full of happiness; and although people lived so close that people can hear the bark sound of their neighbors' dogs, people still never interact with their neighbors from their birth to death.

This kind of ideal social status is aimed at returning human society to its original nature to achieve the maximum promotion of the population's natural growth. This status is achieved by dividing the whole country of China into many small states with small territories and populations. Taoists tried to maintain all Chinese states under this kind of weak and small status to avoid the possible conflicts and wars caused by the great countries and huge population, and to achieve the stable social condition in whole China to form a good environment to promote population growth. Thus, Lao-tzu's philosophy is not only a type of population philosophy, but also a type of political philosophy.

Taoist's population thought regarding noninterference from government was beneficial for ancient Chinese civilians because it restricted the rulers' greedy desires and instead provided better social conditions and increased freedom. Such a philosophy can effectively avoid ancient rulers' tyranny and achieve the promotion of population growth. However, the Taoist idea of "small territory and population" could not satisfy the expectations of the ancient Chinese landlord class, which was to create a powerful, unified, and centralized Chinese empire.²⁰ Thus, Taoist views on population would only be adopted at the beginning of a new dynasty to restore society's economy and population after long periods of chaos and war.

Mohist theory analyzes the best way to maintain the common people's lives

¹⁹ Lao-tzu (老子), *Tao Te Ching*. Chapter Eighty (道德经. 第八十章) (c. 500 B.C.E.).

²⁰ A similar viewpoint can be seen in Liu Wen (刘韞), *Xianqin Zhuzi Renkouguan Lvelun* (先秦诸子人口观略论) (1995).

and promote the birth rate from the common person's perspective. This makes Mohism unlike other ancient Chinese schools of philosophy, which tend to analyze how to promote population growth from the perspective of rulers.

Mohism proposed "universal love" and "non-attack" as two basic rules to solve possible conflicts between different peoples and different states in ancient China to achieve societal stability. Its creator, Mozi, thought that the most common people can maintain their basic lives under this kind of stable, anti-war environment. As Mozi discussed in his book, "if it achieves the universal love in the world, the different states would not break wars; there would also not be any disputes between different families; there is not any thief. So only universal love can bring the peace and prosperity to the world and mutual hate would only bring chaos to the world."²¹ Mozi hoped to use "universal love" as the principle to settle all disputes and to achieve "non-attack" in the world. The "attack" in "non-attack" mainly referred to aggressive wars. However, Mozi was supportive of wars if the war was a just war against aggression. Even Mozi would organize his disciples to utilize their profound mechanical knowledge to take part in these just wars to help the non-aggressor defend itself.²²

After achieving societal stability through the principles of "universal love" and "non-attack", Mozi also advocated "early marriage" to promote the birth rate. As Mozi discussed in his book, "The male must marry a female to create a family before his twenty years old and the female must marry a male before her fifteen years old."²³

The philanthropic characteristic of Mohist ideas on population makes it the most humanistic school of ancient Chinese philosophy. However, because Mohist disciples usually tried to interfere with wars and ancient Chinese politics, it made Mohist thought one of the most dangerous schools of thought from the ruling class' perspective. Thus, after the Warring States period, Mohist population thought, along with its main philosophy, gradually declined and disappeared from Chinese politics and society.

Finally, the Legalist school of thought mainly advocated attaching the promotion of population growth to national strategies to encourage and improve farming and warfare. Under this theoretical framework, its representative, Shang Yang,

²¹ Mozi (墨子), Mozi.Jian An (墨子.兼爱) (c. 400 B.C.E.).

²² According to the record of Mozi (墨子), Mozi.Gongshu (墨子.公输) (c. 400 B.C.E.), Mozi helped Lu State to defend against aggression from Chu State

²³ Mozi(墨子), Mozi.Jieyong(墨子.节用) (Written in around 400 B.C.)

proposed that the population number and the farmland acreage must be kept in a certain balance. When the country's population number is less than the suitable proportion of its farmland, the country should encourage population growth and try to attract more people to live in its territory. For example, "the government should enact the decrees which are conducive to settle and not collect the agriculture tax for at least ten years for these newly settled residents."²⁴ Legalists did not think that a huge population was always a positive. Instead, it held that only achieving a balance between the population and the land is the best. Legalist philosophy regarding the family and population is the most useful political designation during periods of instability. It can maximize a country's strength in a short time to improve military capabilities. But it would not be suitable during a peaceful or unified time.

2.3 HISTORIC POPULATION TRENDS PRE-1949

Throughout ancient Chinese history, the general population number was in a zigzag upward trend. However, there were still some great population number changes in specific periods of each dynasty. There were several large reductions in population over the course of ancient Chinese history, which were caused by wars, natural disasters, nature environment changes, and tyranny. At the same time, there are still many academic controversies about the specific population numbers of different dynastic periods in Chinese academia. In this paper, I only cite Chinese population data from the article of Wang Hongsheng (王鸿生), *Zhongguo Lishi Zhiluan He Xiandaihua Jincheng Zhongde Renkouyinsu* (中国历史治乱和现代化进程中的人口因素) (2012) and Wikipedia.²⁵ The basic Chinese population changes are shown below.

²⁴ Shang Yang(商鞅), Shang Jun Shu. Lai Min(商君书.徠民) (written around 345B.C

²⁵ Wikipedia date and the picture is from the website of <http://upload.wikimedia.org/wikipedia/zh/0/0c/ChinaPopulation>.

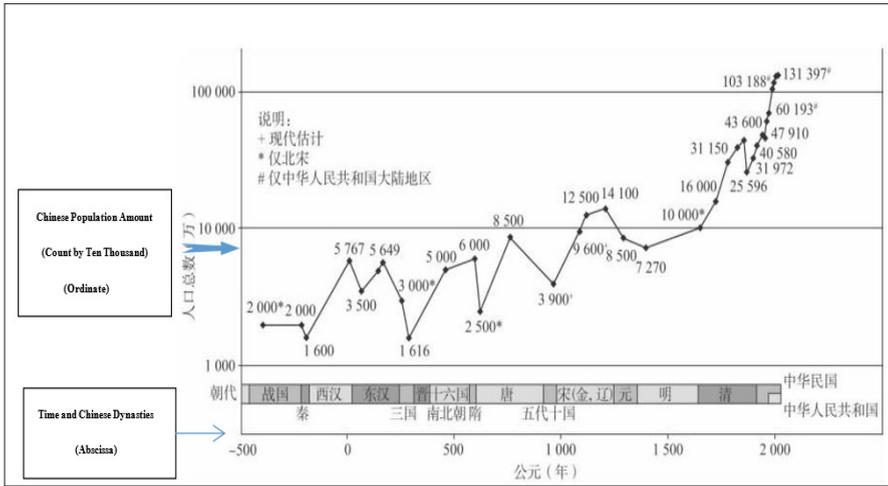


Figure 1

From the above graph, Chinese Population has experienced many peaks and low ebbs in its long history. Since the Qin and Han Dynasties (from 221 B.C.E. to 220 C.E.), the low ebbs of Chinese population have always appeared after large-scale wars. The Chinese population in these low ebbs would usually be from sixteen million to thirty million. The peak population levels have always appeared in the middle and late period of each dynasty. For example, during the Tang Dynasty, the peak population was around 90 million and 450 thousand, which occurred in 755 C.E. (the Mid Period of the Tang Dynasty). During the Song Dynasty, the peak population was around 120 million, which occurred in 1110 C.E. (the late period of the North Song Dynasty). The peak population of the Ming Dynasty was around 166 million and 300 thousand, which occurred in 1566 C.E. (the middle and late period of the Ming Dynasty).²⁶ In the early period of Yuan Dynasty (around 1271 C.E.) and the late period of Ming Dynasty (around 1636 C.E.), large scale of dynastic wars led to a massive reduction of Chinese population. The Yuan Dynasty's unified China war led to the reduction of Chinese Population by more than fifty million from 1206 A.D. to 1279 C.E. The war directly caused the loss of 80% of the population in the original territories of the Jin Dynasty and Xixia Kingdom. The large-scale wars and natural disasters during the late Ming Dynasty also caused the loss of 40% of the population, especially 27 years after 1628 C.E. (the period of the last emperor of the

²⁶ Wang Hongsheng (王鸿生), *Zhongguo Lishi Zhiluan He Xiandaihua Jincheng Zhongde Renkouyinsu* (中国历史治乱和现代化进程中的人口因素) (2012)

Ming Dynasty).²⁷ The graph below²⁸ provides a more direct view of the variation of China's population throughout its ancient history.

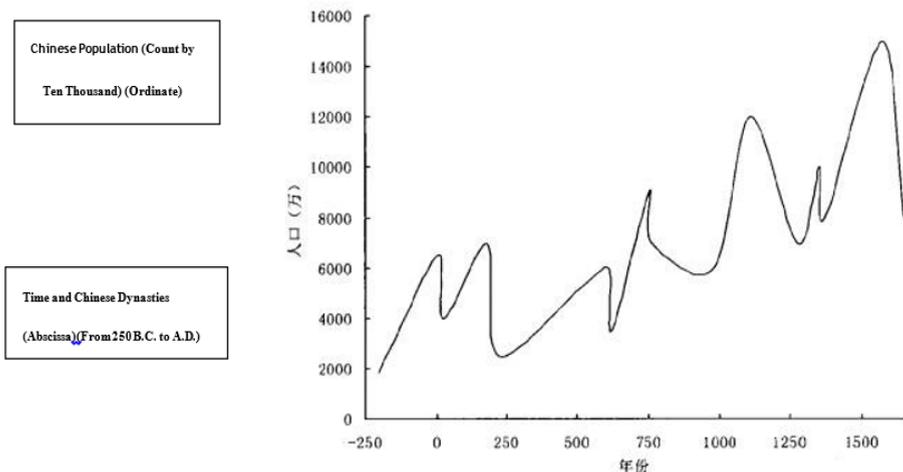


Figure 2.

From the Qing Dynasty onward, the population entered an unprecedented stage of rapid growth. The Chinese population started to rapidly grow from 100 million at the early period of the Qing dynasty (around 1636 to 1644 C.E.) to more than 300 million during the Qianlong Period (around 1790 C.E.), and to around 436 million by 1851 C.E.²⁹ Although the Taiping Rebellion (during the late Qing Dynasty) led to another huge decline of the Chinese population, the turmoil caused by the war still did not suppress the explosive growth rate of the Chinese population. This kind of explosive growth rate sustained until the current Chinese government began to fully implement population planning policies.

This pattern can also be observed by analyzing statistical data of China's population growth rate. In the first 1600 years of Chinese history, from the Xia Dynasty to the Warring States Period, the average annual population growth rate was only 0.062%, and in the next 2000 years, from the Warring States Period to the mid-late period of the Ming Dynasty, the average annual population growth rate

²⁷ Dou Jianchun (豆建春), *Zhongguo Lishishangde Renkou Zengzhang (中国历史上的人口增长---解释因素及其长期效应因素分析)* (2015).

²⁸ Id

²⁹ Wang Hongsheng (王鸿生), *Zhongguo Lishi Zhiluan He Xiandaihua Jincheng Zhongde Renkouyinsu (中国历史治乱和现代化进程中的人口因素)* (2012)

increased to 0.12%. But at the start of the Qing Dynasty (1636 C.E.), the average annual population growth rate increased to 0.23% within the relatively short time of less than one hundred years.³⁰ This period's Chinese population growth rate far exceeded the rate of population growth in any prior period of ancient China. But this record was easily broken by the growth rate experienced after the establishment of the current Chinese government. After the current Chinese government was established in 1949, the Chinese population has doubled in less than forty years, from around 500 million to around one billion.³¹

Therefore, the Qing Dynasty can be regarded as a transitional stage of Chinese population growth from ancient society to modern society. It can not only be regarded as the end of ancient Chinese population growth patterns, but also be regarded as the early stages of modern Chinese population growth patterns.

Generally speaking, the gender ratio has almost never been balanced in ancient and modern China (pre-1949). In most periods of ancient China, there were more males than females. This idea was proposed and supported by Professor Ge Jianxiong. He states in his book that "The number of men and women recorded in the "Zhouli-Zhifang" is unbelievable, and the believable statistics data on genders ratio can only be found from most Chinese local counties' chronicles from Ming Dynasty. In ancient China, the gender ratio of the total population was that male was more than female."³² At the same time, another Chinese society scholar, Song Zhenhao, even proposed a more radical viewpoint: that the phenomenon of disproportionate gender populations was also prominent during China's remote ancient period. He proposed

That the male population occupied the majority proportion of the whole society population in the capital of Yin (Shang) Dynasty, and the female population was mainly consisted by youth female, and the female population number of the middle and old ages groups had a sharp decrease trend. The gender ratio between male population and female population was 183:100, and the number of male population was much higher than female.³³

³⁰ Dou Jianchun (豆建春), *Zhongguo Lishishangde Renkou Zengzhang (中国历史上的人口增长---解释因素及其长期效应因素分析)* (2015).

³¹ Id

³² This quote is from chapter 13 and the first section of Ge Jianxiong (葛剑雄), *Zhongguo Renkou Fazhan Shi (中国人口发展史)* (1991).

³³ This quote is from the chapter 2 and the third section of Song Zhenhao (宋镇豪), *Xiashang Shehui Shenghuo Shi (夏商社会生活史)* (1994).

families' raiment and daily bread. Ancient and modern Chinese farmers spent most of their lives and energy to avoid starving. Under this condition of lacking basic living materials, to continue their families' bloodline and preserve the valuable labor force, most ancient and modern Chinese families had to distribute the limited living materials primarily to the male family members. This would cause the death of many female family members, due to shortages of basic living supplies. This per capita grain possession variation graph illustrates the farmers' dire situation.

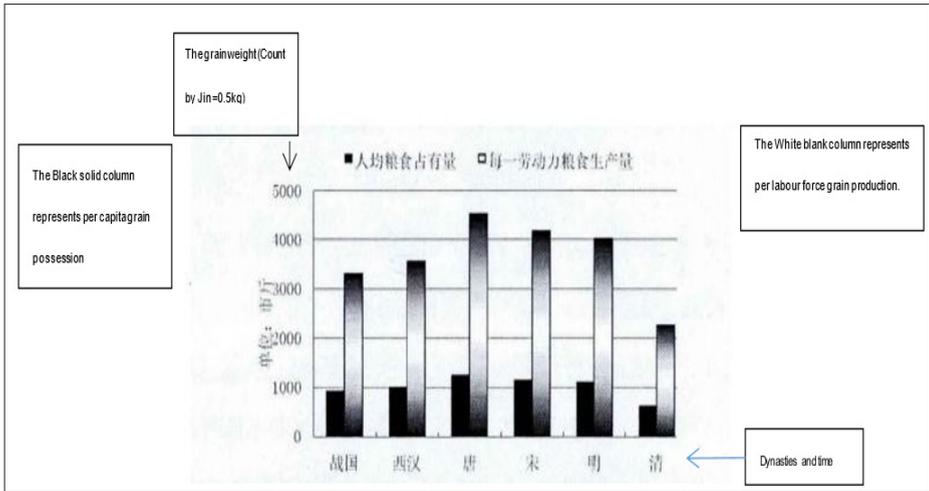


Figure 4.

But the phenomena of a disproportionately large male population would change with the chaos caused by wars. Because large-scale wars would consume a huge amount of the male population, they could easily cause another disproportionate gender population phenomenon, in which the female population was greater than the male population. Examples include the mid period of the Tang Dynasty, which saw frequent and large-scale wars between the Tang and the Arab Empire, and the Tang Dynasty and Tubo Kingdom. These frequent large-scale wars directly caused the female population to be disproportionately large during this period. This occurrence was also recorded by the famous Chinese poet, Du Fu, in his poetry: "Most Chinese common families believed that owing a daughter was better than owing a son. If owing a daughter, she can still marry to the family's neighbor. But if owing a son, he can only die in the barren because of the frequent wars."³⁵

³⁵ Du Fu (杜甫), Bing Che Xing (兵车行) (c. 750-56 C.E.).

The phenomenon of disproportionate gender populations has persisted throughout Chinese history. However, it was greatly improved after the establishment of the current Chinese government.

2.4 THE END OF CHINESE TRADITIONAL FAMILY THE IMPACT OF CURRENT GOVERNMENT AND MODERN CIVILIZATION

The traditional ideas regarding the Chinese family and population model experienced some huge impacts in 1840—the start of First Opium War. The traditional Confucian philosophy regarding how to govern ancient China was completely shattered by the European powers' advanced technology and political system. This also led to the gradual collapse of traditional Chinese family thought.

As discussed above, traditional Chinese family thought is the social reflection of the long term, small-scale agricultural economy which dominated ancient China's economy. During this time, male family members, as the main labor force and family income source, naturally enjoyed higher status and better material distribution in the family. But when modern technology and a global trading economy entered Chinese markets during the late Qing Dynasty, the European colonial powers completely changed and replaced the traditional economic model with modern, global, capitalistic agriculture. This new system meant that most Chinese farmers mainly planted one or several specific crops to meet the global market demand rather than just planting for basic sustenance. According to several records in the late Qing Dynasty,

more and more potatoes, which are mainly sold to Hongkong and Singapore rather than supplied to the peasants themselves, are produced in rural areas around Fuzhou. But 35 years ago, it was difficult to buy potatoes locally, and the potatoes on the table of foreigners were transported from Macao or Shantou.³⁶

After the First Opium War in 1840, traditional Chinese peasants were dragged into the global capitalist market and became the appendages of the global capitalist market economy. Without the traditional Chinese natural economy to support it, the

³⁶ This record is from the report of Fujian Province Custom from 1892 to 1901. Min Haiguan Shinian Baogao(This record is from the report of Fujian Province Custom from 1892 to 1901. Min Haiguan Shinian Baogao (闽海关十年报告) (1901)

idea of the traditional Chinese family gradually declined.

The effects of these phenomena on the Chinese population model manifested themselves through the urbanization of the population caused by the emergence and development of an industrialized economy. The development of agricultural and transportation technology made China finally break through the traditional population bottleneck (from 60 million to 100 million), and also caused explosive population growth and improved social resistance to large-scale chaos.³⁷

Traditional Chinese family thought finally ended when the current Chinese government successfully finished its land reform work and fundamentally purged the traditional agricultural economy in 1950. China's population model also entered its modern development period after the establishment of the current Chinese government.

3 THE INTRODUCTION OF THE ONE-CHILD POLICY

3.1 BACKGROUND AND INITIAL REASONS FOR THE ONE-CHILD POLICY

Before introducing and analyzing Chinese family planning policies, it is necessary to briefly discuss the background and reasons for the government's implementation of these family planning policies.

The primary reason for the Chinese Communist Party to implement the family planning policies is that the huge population had become a heavy burden, making it difficult to continue rapid economic development. There is also a significant conflict between the large population and limited natural resources, especially regarding whether there is enough food to support the rapidly growing population.

In fact, the problem of such a population burden and out of control growth are the result of the mistakes of the Chinese Communist Party's population policies and Chairman Mao Zedong's own philosophy on Chinese population issues.

At the founding of the People's Republic of China,³⁸ China had had already experienced nearly one hundred years of wars, chaos, and political upheaval since

³⁷ This also demonstrates the previously discussed point regarding the large-scale Taiping Rebellion's failure to suppress the Chinese population growth rate

³⁸ This is China's current, official name and is abbreviated as PRC

1840,³⁹ and had just realized basic social stability in 1949. But China still faced a serious economic collapse during this period. When the Chinese Communist Party created its national government in 1949, compared with the best year of the Chinese economy before the war with Japan, the total value of agricultural output in China had fallen by more than 20%, food output was reduced by 22.1%, cotton output was reduced by 46%, the output of light industry was reduced by 30%, the output of coal was reduced by 47.6%, and the output of steel was reduced by 62.2%.⁴⁰ During this period, national economic productivity was low, material supplies were in serious shortage, and the whole country's economy almost collapsed. At the same time, China still kept its traditionally high birth rate, high mortality rate, short average lifespan, and low overall population growth rate.⁴¹ Under these basic economic and slow population growth conditions, in order to ensure the rapid development of the Chinese economy and to restore the lost population that resulted from the long period of wars, it was necessary for the Chinese Communist Party to adopt appropriate measures to promote population growth. From 1950, the Chinese Communist Party implemented several policies to encourage free birth, which manifested themselves in related government policies strictly limiting abortion and contraception. On April 20, 1950, the Ministry of Health of the Central Government and the Ministry of Health of the Chinese Revolutionary Military Commission jointly enacted the "measures for restricting the abortion of military female cadres", which clearly stipulated to prohibit the illegal abortions to protect the safety of pregnant women and the lives of the next generation.⁴² In 1952, the Ministry of Health of the Chinese Central Government also enacted a nationwide "temporary regulatory law of restricting contraception and induced abortion" based on the aforementioned rule in 1950. Even the Chinese Central Government designed a specific criminal offense of "Crime of illegal abortion".⁴³

These policies encouraging free birth directly led to a substantial increase

³⁹ In 1931, China experienced frequent and large-scale Japanese invasions. Although China achieved victory in the Second World War in 1945, it experienced another large-scale war between the Chinese Communist Party and the Chinese Nationalist Party just a year later.

⁴⁰ Wu Qungan (吴群敢), *Zhongguo Shehuizhuyi Jingji Jinshi (中国经济简史)* 16 (1985).

⁴¹ Tian Xueyuan (田雪原), *Zhongguo Renkouzhengce Liushinian (中国人口政策六十年)* 41 (2009). This means that China's population reproduction model was still considered a simple population reproduction model, which was almost the same as the model in ancient China.

⁴² Sun Muhan (孙沐寒), *Zhongguo Jihushengyu Shi (中国计划生育史)* 66 (1990).

⁴³ Qu Zhenwu (瞿振武), *20Shiji 50Niandai Zhongguorenkou Zhengce De Huigu Yu Zaipingjia (20世纪50年代中国人口政策的回顾与再评价)* (2000).

in the population growth rate. In 1949, the population growth rate was around 1.6%, but after 4 years, in 1953, the growth rate was increased to 2.3%, and in 1957, the growth rate increased to 2.379%. In addition to the Chinese government's encouraging of free birth policies to stimulate the birth rate and increase the population, the main reason for the dramatic increase in natural population growth in the short term was the improvement of the Chinese economy after the recovery period of 1949-1952. The huge improvement in the Chinese economy and overall social stability directly led to the fundamental transformation of the Chinese population growth model from the traditional, ancient model (high birth rate, high death and low growth rate) to the modern model (high birth rate, low death rate and high growth rate). The annual mortality rate in China has continuously decreased every year since 1949. The annual death rate was around 2% in 1949 and around 1.7% in 1951 and 1952, and by 1956 and 1957, the death rate decreased to 1.14% and 1.08%.⁴⁴ With this rapid population growth rate, the Chinese population increased from 475 million in 1949 to more than 800 million in 1969. Thus, the Chinese Population almost doubled within just twenty years. This of explosive expansion far exceeded the growth rate of grain production during the same period, and it even exceeded the carrying capacity of economic development during this period. For example, from 1949 to 1952, the Chinese population increased by 71 million 710 thousand people, but the grain yield only increased from 113 million 180 thousand tons in 1949 to 163 million 920 thousand tons in 1952.

But the Chinese Communist Party and its leaders did not have a clear understanding of the possible enormous burden of the rapid population increase. The Communist Party had also overlooked the possible obstacles to future industrialization and economic development caused by the huge population. Chairman Mao Zedong's personal views about China's population problems played an important role in influencing the Chinese Communist Party's policies on encouraging population growth. Chairman Mao proposed that "the Chinese revolution is not originated from its excessive population but from the backward economic relations of production. And the population is the most valuable resource in the world". His evaluative critique of the United States' white paper on China published in 1949 stated, "The Chinese Nationalist Party's failure was due to Chinese huge population and being

⁴⁴ Tian Xueyuan (田雪原), *Zhongguo Renkouzhengce Liushinian (中国人口政策六十年)* 49 (2009).

not able to solve the huge population's starving problem".⁴⁵ Also in 1949, Chairman Mao proposed that "the large population is a good thing for China" at the first plenary session of the Chinese People's Political Consultative Conference.

But after the restoration period from 1949 to 1952, the Chinese Communist Party had found the explosive expansion rate may not match the growth rate of grain production in the same period. But the completion of the First Five-Year Economic plan (1953-1957) and the exaggeration of Chinese economic data during the Great Leap Forward (1958-1960) led the Chinese Communist Party to remain unrealistically optimistic about the growing population.

By 1969, China's population increased to over eight hundred million. The Chinese Communist Party then became aware of how serious of a problem the huge population was. The huge population and rapid growth rate were obstacles to China achieving overall industrialization and long term economic development. At the same time, the rapid growth rate of the population not only placed a great burden on the Chinese education system, but also on agriculture. This meant China's limited capital, which should have been devoted to accelerating the industrialization process, had to be allocated to agriculture and education. Thus, China's fast-growing population rate provided no assistance to Chinese industrial and social development.

The Chinese Communist Party had to consider what family planning policies would be suitable for China to effectively end the population problem.

3.2 CHINESE FAMILY PLANNING POLICIES FROM 1962 TO 2015

By 1961, the Chinese Communist Party had gradually realized that a large population was not always a good thing for China, and at the same time, also introspected on its previous excessive critique of Ma Yinchu's theory⁴⁶ of advocating proper control of Chinese rapid population growth rate. The direct reason for the

⁴⁵ Mao Zedong (毛泽东), *Mao Zedong Xuanji (毛泽东选集)* 1551 (1991).

⁴⁶ Ma Yinchu (1882-1982), was one of China's most famous sociologists at the time the founding of the People's Republic of China. He had been the dean of Beijing University. "In June 1957, at the fourth session of the First National People's Congress, Ma presented his New Population Theory. Having examined trends of the early 1950s, he concluded that further population growth at such high rates would be detrimental to China's development. Therefore, he advocated government control of fertility. During the following three years, Ma's theory suffered two rounds of attacks, and he was dismissed from public life. The charges of the government were that the theory followed Malthusianism, attempted to discredit the superiority of socialism, and showed contempt for the people." *Ma Yinchu*, Wikipedia (last edited Jan. 17, 2018), https://en.wikipedia.org/wiki/Ma_Yinchu

vacillation of the Chinese Communist Party and Chairman Mao on their previous “free-birth” population policies was the serious economic crisis during the Great Leap Forward (1958-1960). The Great Leap Forward seriously violated basic economic development rules. The absurd movement led to serious chaos in the Chinese national economy, coupled with frequent natural calamities, which finally caused a serious nationwide famine in China from 1959-1961. According to the analysis of Li Chengrui, this nationwide famine caused abnormal deaths in China to be as high as 21 million 580 thousand.⁴⁷ This famine also led to the first period of negative population growth since the founding of the People’s Republic of China. In 1960, the Chinese Population Growth rate was -0.457%.⁴⁸ The famine made the Chinese Communist Party and Chairman Mao begin to realize that too large of a population was not only a huge burden on agricultural development, but also interfered with large-scale industrial economic construction.

In December of 1962, the Chinese Communist Party Central Committee and the State Council jointly promulgated “the Instruction on seriously advocating family planning policies”. This was the first time in history the Chinese government officially proposed “family planning policies”. In its instructions, the Chinese government proposed that “in Chinese urban and densely populated rural areas, Chinese government must advocate the restriction of birth to appropriately control the natural growth rate of Chinese population and change Chinese birth condition from unplanned to planned.”

From 1962 to 1968, in order to achieve the goal of appropriately reducing the natural population growth rate, the Chinese government embarked on a series of family planning measures. But most of these measures were based on encouraging people’s voluntary birth control. In 1963, the Chinese Communist Party Central Committee and the State Council made “the summary of the first conference about urban work”, which required both the central government and local governments to establish the family planning committees to lead and guide the central and local family planning works. From 1964, almost every Chinese province had established its local family planning committee, and these local family planning committees started to formulate their family planning policies and objectives in line with the situation of their various regions. For example, in 1964, Guangdong Province and

⁴⁷ Li Chengrui (李成瑞), *Dayuejin Yinqi De Renkoubian dong* (大跃进引起的人口变动) (1998).

⁴⁸ Chinese national bureau of statistics (国家统计局), *Zhongguo Tongji Nianjian* (中国统计年鉴 1986) 92 (1987)

Shanghai City's family planning committees encouraged their residents to be "late marriage and late childbirth"; in 1963, Liaoning Province's family planning committee proposed to restrict its families to bear their third fetuses; in 1963, Yunnan Province's family planning committees put forward the family planning policy of "one child for each family is not few, two children for each family are just appropriate, three children for each family are too much" and so on. It is noteworthy that most of these family planning policies proposed by these local family planning committees were voluntary and encouraging rather than mandatory with related punishments. At the same time, the central government also vigorously promoted the distribution of free contraceptives, reduced or waived the medical costs of abortion and contraception surgeries for common people, enacted clear statutes to strictly prohibit early marriage, and advocated late marriage.⁴⁹

Although these family planning policies were generally not as strict as or mandatory like later family planning policies, the policies still achieved some considerable effect. From 1963-1969, the Chinese birth rate decreased from 4.337% to 3.411%, and the Chinese population growth rate decreased from 3.333% to 2.603%. China's population growth model gradually became healthier. But almost all of these achievements of family planning were destroyed by the impact of the Cultural Revolution (1966-1976). After 1968, the Cultural Revolution threw almost all of China into a state of anarchy. Although the Chinese Communist Party and the government still adhered to the policy of restricting the rapid growth of the Chinese population, almost all levels of the Chinese government were in a state of paralysis because of the Cultural Revolution, and they could not effectively maintain the family planning policies. The population growth rate, from 1968 to 1971, had returned to its original, pre-1962, out-of-control status.⁵⁰

But the CCP and Chairman Mao soon discovered the terrible consequences of being unable to maintain the previous family planning policies. In 1970, the Chinese population had already sharply increased to 830 million. This resulted in a sharp decline in per capita natural resources and a huge disparity between the excessive population and China's fragile economic condition during that period. The Chinese population increased by 350 million from 1949 to 1970, and the per capita

⁴⁹ These measures can be found in "Instructions from the CPC Central Committee and the State Council for approval of the second urban work conference minutes", official number:[63]699, (1963.10.22)

⁵⁰ Zhu Qiulian (朱秋莲), *Jianguo Yilai Dangde Renkou Shengyu Zengce Bianqian Yanjiu* (建国以来党的人口生育政策变迁研究) (2013).

cultivated land area decreased from 2.7 mu (1 mu=0.0667 hectares) per person in 1949 to 1.83 mu per capita in 1970. In addition, since 1956, there had been a serious surplus of Chinese rural laborers. Per capita foodstuff fell to 293 kg in 1970. Hundreds of millions of rural Chinese were living below the poverty line, and the per capita income level of the urban population also declined.⁵¹ The living standards of most Chinese people had not substantially improved since 1968.

The Communist Party and Chairman Mao had to resume the local family planning systems which were practically paralyzed for nearly three years due to the Cultural Revolution. In late 1970, the CCP again stressed the importance of family planning and launched a series of corresponding policies. But these policies were still based on encouraging voluntary birth control; they did not utilize the state's power to compulsively restrict people's reproductive practices. Compared to the effect of mandatory family planning policies after 1980, the general effect of family planning policies in the period from 1971 to 1980 was dissatisfactory. But it is worth mentioning that during this period, in order to follow Chairman Mao's proposal "that the work of contraception should be sent to every family's front door" in 1972,⁵² the CCP supplied a large number of free contraceptives and related devices to the rural areas. Also, from 1973, the Communist Party brought population planning quotas into the national economic plan, and the State Council also gradually restored the central and regional family planning organizations. These two measures formed a foundation for the later mandatory family planning policies, implemented in 1980.

The social disorder caused by the Cultural Revolution dealt a huge blow to China's economic development, and the ten years of chaos pushed the economy to the edge of collapse again. In order to save the economy from collapsing and allow for Chinese people to escape poverty, the CCP started "reform and opening up" in 1978 (two years after Chairman Mao's death). Being one of the major, long term hinderances to China's economic development, the population situation was naturally included in the main measures of "the reform and opening up".

In 1979, the Communist Party completely rehabilitated professor Ma Yinchu, who had been overcriticized from 1957, through "the report to rehabilitate Mr. Ma Yinchu" published by Beijing University. The Communist Party thus began to fully support Chinese scholars to start further research in the field of population

⁵¹ Chinese National Bureau of Statistics (国家统计局), *Zhongguo Tongji Nianjian*(中国统计年鉴) 56 (1983).

⁵² *Jianguo Yilai Zhongyao Wenxian Xuanbian* (建国以来重要文献选编) 7th book at 350 (1993).

theory. From 1978 to 1981, the Chinese government successively held three scientific symposiums on population theory, and also hosted the round table conference of international demographers in 1980 in Beijing. The Chinese government was eager to explore policies that could effectively control the rapid growth of the Chinese population, through the research of domestic scholars and relying on other countries' successful experiences.

From 1978, almost every Chinese provincial government further tightened its childbearing policies, which usually meant a change from the original policies of encouragement, to current mandatory policies stipulating a couple have only one child, with a maximum of two children in special cases. Among these provinces, Hebei Province encouraged couples to have only one child, with a maximum of two, but other, more developed provinces, such as Beijing, Shanghai, Tianjin and Jilin, strictly limited couples to only one child.⁵³ This is the first time in Chinese history the government used its administrative power to compel people to follow family planning policies and restrict the number of children each couple could have.

Although many Chinese provinces tried to use some mandatory policies to control their provinces' birth rate in 1978, the central government still tried to utilize encouraging rather than mandatory methods. In October, 1978, the central government, in the "Report on the first meeting of the family planning leading group of the State Council", stressed that "it is recommended that the best number of children for each couple to have is only one, and the maximum can be two but there must be an interval of more than three years". But after nearly two years of analysis and experimentation, on September 25, 1980, the Central Committee of the Communist Party of China issued an "open letter to all Chinese Communist Party members and Chinese Communist Youth League members about how to control Chinese population growth" ("open letter"). In the letter, the Communist Party advocated that each couple have only one child, planning to control the population within 1 billion 200 million by the end of the twentieth century.⁵⁴ However, the

Chinese Communist Party still utilized the word "advocate" as the government's attitude for each couple with only one child. In fact, "advocate" had already changed from encouraging and voluntary in 1970s to mandatory in 1980s. It

⁵³ Zhu Qiulian (朱秋莲), *Jianguo Yilai Dangde Renkou Shengyu Zengce Bianqian Yanjiu (建国以来党的人口生育政策变迁研究)* (2013).

⁵⁴ *Zhongguo Renkou Nianjian 1985 (中国人口年鉴 1985)* 28-29 (1986).

means that the central government started to officially and compulsively implement the “one-child policy” throughout the entire Chinese mainland territory (not including Taiwan, Macao and Hongkong).

The one-child policy has been almost continuously implemented for nearly 35 years (from 1980 to 2015) in China and occurred during the rise of the Chinese economy and “Chinese reform and opening up”. But the one-child policy was not unchanging, experiencing many variations since 1980, especially in rural areas.

In 1980, when the Chinese government just started to implement the one-child policy, in accordance with Communist Party’s requirement in the “open letter”, all Chinese mainland residents had to follow the one child policy except for minorities. There was no exception or different application of the one-child policy in rural areas and there was no discrimination between urban and rural areas.

After implementing this indistinguishable one-child policy for around one year (1980 to 1981), the Chinese government found that this undifferentiated one-child policy had a poor effect in rural areas. The agricultural economy in rural areas still relied heavily on a male labor force. Traditional views regarding the patriarchal family and the idea of “more sons meaning more happiness”⁵⁵ were still very common in rural areas. The one-child policy made many rural families lose opportunities to have sons, which was almost unbearable for them. The one child policy seriously violated traditional family norms. It would be almost impossible to strictly apply the one child policy, like in urban areas, to rural areas. Even after the implementation of the one-child policy in rural areas in 1980, rural areas’ population growth rate increased by 0.268% in 1981 compared with 1980.⁵⁶ Furthermore, to achieve the goal of controlled population growth in rural areas, many local Communist Party low-level cadres utilized forcible, illegal, and even violent methods. One example is compulsory abortion for women undergoing a second pregnancy, even after six months. These conditions caused the one-child policy to be seen with hostility by people in rural areas.

In mid 1981, in order to effectively implement the family planning policy in rural areas, the central government initiated a series of restudy and reforms. On September 10, 1981, the Secretariat of the Central Committee of the Communist

⁵⁵ See *supra* Part I

⁵⁶ Chinese National Bureau of Statistics (国家统计局), *Zhongguo Tongji Nianjian* (中国统计年鉴) (1983).

Party held a special meeting to discuss possible adjustments to the one-child policy in rural areas.⁵⁷

After nearly five years (1981-86) of frequent adjustment and variation to the one child policy in rural areas (e.g., special approval from the local government to permit rural area couples to have a second child; the small scale loosening of the one child policy in rural areas, which permitted rural couples to have a second child if their first was a daughter), the Chinese government finally worked out a relatively perfect and stable one-child policy which was suitable to rural areas' nature. In May of 1986, the Central Committee of the Communist Party promulgated the No. Thirteen Document to officially confirm the family planning policies in rural areas, which were stable and almost unchanged for over 20 years, until 2015.

There are three basic core rules proposed in No. 13 Document to guide the application of the one-child policy in rural areas. First, it would be legal to allow rural couples to have a second child, but the couples' first child must be a daughter. Second, there must be more than three years between the first child's birth and second child's birth. Third, without violating the above two basic principles, each local provincial government can establish and implement some other specific one child policy according to each province's circumstances.

The rural one-child policies in each of the provinces can basically be divided into three types. First, in the economically developed provinces like Beijing, Shanghai, Tianjin, and Jiangsu, the provincial governments stipulated that they would encourage all rural couples to have only one child, and in some special situations (e.g., the father is the only son for three generations of his family and his first child is a daughter) and after application and approval by the government, rural couples would be permitted to have a second child. These provinces emphasized the government's deciding authority on the second child's birth in order to achieve control of its territory's birth rate. Second, in the economically developing provinces, like Liaoning, Zhejiang, Fujian, and Chongqing, the provincial governments stipulated that all rural couples, whose first and only child is a daughter, would be allowed to have a second child, without any application or approval requirement by the government. But these provinces emphasized that rural couples were forbidden from having a third child, except in cases of their children's death, mental problems or disability. Third, in some economically undeveloped provinces or those adhering

⁵⁷ Zhu Qiulian (朱秋莲), *Jianguo Yilai Dangde Renkou Shengyu Zengce Bianqian Yanjiu* (建国以来党的 人口生育政策变迁研究) (2013).

to strong traditional family ideas, such as Yuannan and Guangdong, the provincial government stipulated that rural couples would be allowed to have two children, whether or not their first child is a daughter. These provinces also emphasized that having a third child is forbidden, except in cases of their children's death, mental problems or disability.⁵⁸

Starting in 1980, the Chinese government also implemented forced family planning policies on almost every Chinese minority, but the government also provided some different, preferential policies to each minority according to its specific population status. Generally speaking, the family planning policies for minorities were looser than the one-child policy that applied to the majority (and by far largest) ethnic group in China, the Han. According to the "Report on the work of family planning" by the Chinese National Family Planning Commission in April of 1984, the Chinese government designated ten million as the minorities' population baseline, and any minority whose population was less than ten million would be permitted to have two children for each couple, with no distinction between urban and rural areas. In fact, most of China's minorities' populations were lower than ten million, such as the Miao and Zang ethnic groups. For some sparsely populated minorities, such as the Xibe ethnic group, the Chinese government implemented even less restrictive population policies; these minorities would be permitted to have three children for each couple. For minorities whose populations were over ten million, the standard one-child policy would apply. According to the 1990 Chinese population census, only the Zhuang ethnic group's population was over ten million.⁵⁹ In addition, these family planning policies designated for Chinese minorities had related legal protection from the "Law of the People's Republic of China on Regional National Autonomy", enacted in 1984. The statute states that "the organs of self-government of ethnic autonomous areas, in accordance with Chinese law and the local minorities actual conditions, have the authority to design and implement the specific family planning policies in its territory."⁶⁰

In a strict legal sense, there was no clear, formal legal basis for the Chinese family planning policies implemented by the government before 1982, or the Chinese family planning policies that were mainly based on the policies, administrative

⁵⁸ Zhu Qiulian (朱秋莲), *Jianguo Yilai Dangde Renkou Shengyu Zengce Bianqian Yanjiu* (建国以来党的人口生育政策变迁研究) (2013)

⁵⁹ Wang Youxing (王有星), *Shaoshu Minzu Jihuashengyu Cutan* (少数民族计划生育初探) (1998)

⁶⁰ This is from the Clause 44 of the Law of the People's Republic of China on Regional National Autonomy

instructions, and notifications issued by the CCP at different periods. The Chinese government also directly utilized these Communist Party policies, administrative instructions and notifications as the basis and standard of execution. Of course, this situation is the result of the CCP's pre-reform era habit of governing the country via political meetings and ignoring the law's function. This method of governance meant that the family planning policies would be unstable in the long run. In addition, it enabled local officials to abuse their power, including the violent implementation of the family planning policies.

In order to achieve long-term and standardized implementation of the family planning policy, the Communist Party began the legislative process for the policy in 1982. In September of 1982, the Communist Party set family planning as one of China's basic national policies. In December of 1982, the Communist Party also incorporated family planning into the Chinese constitution. Article 25 of the constitution states "The state promotes family planning so that population growth may fit the plans for economic and social development," and Article 49 states "Both

husband and wife have the duty to practise family planning."⁶¹ After being included in the Chinese constitution, family planning officially became a basic national policy and a common obligation for all Chinese citizens.

In order to ensure the normative and effective implementation of the family planning policies and limit any ambiguities, the CCP enacted the "population and family planning law of People's Republic of China" on December 29, 2001.

According to the "population and family planning law of People's Republic of China" statute, the government should reward citizens who comply with the family planning policy and the requirement that one couple should have only one child.⁶² It reiterates that the one-child policy was the basic rule for Chinese family planning policies.⁶³ It also prohibits the compulsory enforcement of family planning policies, such as the illegal and violent methods used by local officials,

⁶¹ XIANFA art. 25, 49 (1982) (China).

⁶² Zhonghuarenmignongheguo Renkou Yu Jihuashengyu Fa (中华人民共和国人口与计划生育法) [Population and Family Planning Law of the People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., Dec. 29, 2001, effective Sept. 1, 2002) Chapter IV, <http://www.88148.com/Info/201503233718.html>.

⁶³ Zhonghuarenmignongheguo Renkou Yu Jihuashengyu Fa (中华人民共和国人口与计划生育法) [Population and Family Planning Law of the People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong. Dec. 29, 2001, effective Sept. 1, 2002) Art. 18., <http://www.88148.com/Info/201503233718.html>.

or the evasion of the implementation of family planning.⁶⁴ After China realized the legalization of family planning policies, the policies entered a more stable and effective stage. This has played a key role in enabling China to effectively control its population growth rate.

Since 1980, the strict implementation of the one-child policy has brought great changes to China's population trends and has helped the country effectively control its rapidly growing population. Combined with the rise of the Chinese economy after the reform period, the one-child policy helped China gradually eliminate the fundamental conflict of its long history, which is rapid population growth combined with a lack of economic development. The one-child policy helped Chinese society achieve development and progress.

But at the same time, the overly and rigorously enforced one-child policy also brought many social problems to China. It has resulted in an aging population, an insufficient youth labor force, and huge social pressures placed on the youth. Finally, in 2015, the Chinese government abolished the one-child policy, which had been in effect for more than 35 years.

In October of 2015, during the Fifth Plenary Session of the Eighteenth Central Committee of the Communist Party of China, the Party decided to use an "overall two-child policy" to replace the previous one-child policy as the new basic rule of family planning. This change draws an end to the famous one-child policy. Thus, Chinese family planning policies have entered into a new era.

3.3 CHINESE PEOPLE'S PERSPECTIVES ON THE ONE-CHILD POLICY: ATTITUDES, OBEDIENCE, PUNISHMENT AND REWARD

Throughout most of China's history, the Chinese people were generally obedient to the government and its policies, whether its policies were reasonable or humanitarian, as long as the government enabled people to satisfy their basic needs and did not overly oppress them. For example, on February 1, 1943, the newspaper *The Dagong Daily* published a report called "The starving Henan" (and later it was renamed "the record of the famine disaster in Henan"). The reporter, Zhang

⁶⁴ Zhonghuanrenmigongheguo Renkou Yu Jihuashengyu Fa (中华人民共和国人口与计划生育法) [Population and Family Planning Law of the People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., Dec. 29, 2001, effective Sept. 1, 2002) Chapter VI., <http://www.88148.com/Info/201503233718.html>.

Gaofeng, angrily pointed out, “Today, in Henan, the famine people, who eat the tree barks to fill their bellies, still try their best to pay the annual taxes in grain”⁶⁵

However, this kind of obedient attitude does not necessarily mean that the Chinese people have a supportive attitude to the government’s policies. It only demonstrates that most Chinese people will keep a kind of customary, reluctantly obedient attitude to the authority of the government. This traditional attitude also applied to Chinese one-child policy.

It is difficult to find valuable and credible statistical data and analysis about the true attitudes of Chinese people toward the one-child policy, even within the Chinese academic field and the records of the Chinese National Bureau of Statistics. Thus, I can only analyze and speculate the true views held by the Chinese people regarding the one-child policy through a small-scale study in Chongqing this year and several famous criminal cases that occurred in the 1990s.

Among the several famous criminal cases that resulted from the one-child policy, the most famous is the Tian Mingjian incident.⁶⁶ The Tian Mingjian incident demonstrates that ordinary Chinese people, including low-level military officers, feel disgusted toward the brutal implementation of the one-child policy by local family planning officers (such as compulsory abortion even after 4 months of pregnancy). This kind of disgusted attitude combined with sudden accidents or incidents of social injustice, could easily trigger criminal acts and cases, which can become the focus of social tension.

⁶⁵ This report was from February 1, 1943 in *The Dagong Daily* to record the serious drought and famine disaster in Henan Province in 1942. The government of the Republic of China did not effectively provide relief after the serious disaster, and instead stipulated its previous tyrannical policies

⁶⁶ The Tian Mingjian incident was an act of mass murder that occurred in Beijing, China on September 20, 1994. People’s Liberation Army officer First Lieutenant Tian Mingjian (Chinese: 田明建) first killed his officer and then killed several other soldiers at his military base in Tongxian County, and afterwards drove towards Jianguomen, where he continued his shooting spree and indiscriminately fired at people in the streets. Dozens were killed and wounded, including an Iranian diplomat and his son, before Lt. Tian was finally shot dead by a police sniper. Tian Mingjian (born in 1964) was a first lieutenant stationed at an army base in Tongxian County, a suburb of Beijing. He had been in the military for over ten years, originally as a sharpshooter and was highly skilled in the field of military technology. He was once promoted to regimental staff officer for military affairs but due to his bad temper and irritability was eventually demoted to acting company commander. At the time of the shooting he served in this position in the 12th Regiment of the Third Guards Division of the Beijing Garrison Command. He was said to have violated discipline by beating other soldiers and had a grievance against his superiors for being reprimanded about this. Tian was married but due to his demotion his wife was not allowed to live with him at the base. He sent gifts to the regimental political commissar, who then promised to help him in this matter, but two days prior to the shooting the commissar returned the gifts and hinted that he would punish Tian. It was also reported that Tian had a quarrel with his superiors because they had forced his wife to have an abortion when she was pregnant with their second child, in accordance with China’s one-child policy. Tian already had a daughter, but he came from the rural area in Henan Province, where strong traditional values emphasize siring a male child. Thus, Tian secretly planned on having a son until someone in the army revealed his plan and the birth control officer forced his wife to have an abortion. By this time his wife was already seven months pregnant and died during the operation along with the unborn fetus (later discovered to be a boy).” *Tian Mingjian Incident*, Wikipedia (last edited Aug. 27, 2017), https://en.wikipedia.org/wiki/Tian_Mingjian_incident

The following is a summary of the statistical data I collected in a small-scale survey regarding urban residents' attitudes toward the one-child policy in the Yubei District of Chongqing, China. Based on the age and gender of the participants, I divided the subjects into three groups: elderly, middle-aged, and young people, and into two groups based on gender (female and male).

Groups	Elderly	Middle-age	Youth	Female	Male
Supportive	9	21	32	38	24
Disgust	41	29	18	37	51

Due to the small scale of the survey (150 people), the real nature of urban people's attitudes toward the one-child policy cannot decisively be determined. But according to the results of this survey, it can be conjectured that more than half of the Chinese people in urban areas have a disgusted attitude toward the one-child policy, and the elderly and male groups harbor the most disgust toward the policy. More than half of the youth and female people in Chinese urban areas have a supportive attitude toward the one-child policy. The traditional family philosophies of "more happiness comes with more offspring" and "son preference" still occupy an important position in elderly and male Chinese people's minds, which could be why these groups are the most disgusted. The rise of feminism in China, along with the ability to more easily manage a small family, may be the reasons why females and young people hold supportive attitudes toward the policy.

The punishment and reward system to enforce the one-child policy is found in Chapter IV of the Population and Family Planning Law of the People's Republic of China:

Chapter IV Rewards and Social Security

Article 23 The State, in accordance with regulations, rewards couples who practise family planning.

Article 25 Citizens who marry late and delay childbearing may be entitled to longer nuptial and maternity leaves or other welfare benefits.

Article 26 In accordance with relevant State regulations, women shall enjoy special occupational protection and be entitled to assistance and subsidies during the period of pregnancy, delivery, and breast-feeding.

Citizens who undergo surgical operation for family plan-

ning shall enjoy leaves as specified by the State. Local people's governments may give them rewards.

Article 27 The State shall issue to a couple who volunteer to have only one child in their lifetime a "Certificate of Honor for Single-Child Parents".

Couples who are issued the said certificate shall enjoy rewards in accordance with the relevant regulations of the State and of the province, autonomous region, or municipality directly under the Central Government.

Where measures in laws, rules or regulations specify that the rewards to couples who have only one child in their lifetime shall be given by the units where they work, such units shall execute the measures.

Where the only child of a couple is disabled or killed in accidents, and the couple decides not to have or adopt another child, the local people's government shall provide the couple with necessary assistance.

Article 28 Local people's governments at all levels shall help rural households that practise family planning to develop economic undertakings by giving them support and preferential treatment in terms of funds, technology and training. Poverty-stricken households that practise family planning shall be given priority in terms of poverty-alleviation loans, relief through work and other poverty-alleviation projects, and social assistance.

Analyzing the statute shows why the reward system of the one-child policy was insufficient for generating more support for the program. The rewards focus more on appeals to spirituality and honor than on concrete consequences for certain behavior.

In Article 27, the government would provide a "Certificate of Honor for Single-Child Parents" to couples who have only one child in their lifetime. However, the corresponding economic rewards for the couples who voluntarily support the one-child policy, compared with market price levels, can be deemed almost negligible.

The regulations regarding punishment in the Population and Family Planning Law of the People's Republic of China are ambiguous and incomplete. According to Article 41, "Citizens who give birth to babies not in compliance with the provisions of Article 18 of this Law shall pay a social maintenance fee prescribed by

⁶⁷ Zhonghuarenmigungheguo Renkou Yu Jihuashengyu Fa (中华人民共和国人口与计划生育法) [Population and Family Planning Law of the People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., Dec. 29, 2001, effective Sep. 1, 2002) Chapter VI, <http://www.88148.com/Info/201503233718.html>

law.” The law only regulates one kind of economic punishment for violators of the one-child policy.

But in actual practice, many local, low-level family planning bureau officers would impose physical punishments on couples who violated the law. The most but in actual practice, many local, low-level common physical punishments for these couples were forced abortion for the pregnant wife and forced vasectomy for the husband. Some local family planning officers implemented these kinds of punishment through violent and illegal methods. However, according to the Population and Family Planning Law, this kind of illegal conduct would be punishable under criminal law. Thus, these illegal and violent methods were mainly applied during the early stages of one-child policy. Especially with the enactment of the Population and Family Planning Law of the People’s Republic of China in 2001, these methods were longer common. The punishments for the couples who violated the one-child policy were basically replaced by the previously discussed fine and the dismissal from one’s public position or occupation.

Therefore, because of the seriousness of the punishments under the one-child policy, the implementation of the policy depended more on its punishment measures.

3.4 THE INFLUENCE AND EFFECTS OF THE ONE-CHILD POLICY FROM 1980

China’s one-child policy has played an important, positive role in the rapid development of Chinese society since 1980. However, it has also caused some social problems during that time.

First, the one-child policy has effectively slowed the growth rate of the Chinese population, curbed the explosive growth of the population, and alleviated the sharp disparity between the level of Chinese economic development and the continued increase of an already large population. The natural growth rate of China’s population dropped from 1.187% in 1980 to 0.758% in 2000,⁶⁸ and in 2010 the population growth rate dropped to 0.479%.⁶⁹ The one-child policy completely changed China’s population growth model, from the previous high birth rate, low death rate,

⁶⁸ Chinese National Bureau of Statistics (国家统计局), *Zhongguo Tongji Nianjian 2007* (中国统计年鉴 2007) 40 (2007)

⁶⁹ Chinese National Bureau of Statistics (国家统计局), *Zhongguo Tongji Nianjian 2011* (中国统计年鉴 2011) 94-96 (2011).

and high growth rate model, to a low birth rate, low death rate, and low growth rate model, which is similar to the model of most European and North American countries.

During the same period, China's gross domestic product (GDP) increased from 9921.5 billion yuan in 2000 to 40120.2 billion yuan in 2010, and China became the second largest economy in the world. In addition, per capita GDP increased from 7858 yuan in 2000 to 29992 yuan in 2010.⁷⁰ The one-child policy effectively helped the majority of Chinese people improve their basic living standards and allowed them to better enjoy material lives. China thus eliminated the disparity between its large population and its limited economic development.

Second, the one-child policy has improved China professionally and culturally. The illiteracy rate in China dropped from 22.81% in 1982 to 4.08% in 2010. Because of the existence of a large number of infants, in 2010 China almost completely eliminated the illiteracy situation among Chinese young and mid-aged people. In addition, China's per capita education length also increased from 4.21 years in 1982 to 9.0 years in 2010.⁷¹ The increasing per capita education level provides an impetus to the rapid development of Chinese industry and the rapid development of Chinese high technology and science.

However, the one-child policy has also created serious social problems for China. The policy directly led to the imbalance of the birth gender ratio. From 1980 onward, the birth gender ratio became increasingly imbalanced. In 2010, the of males and females even arrived to 118.08:100.⁷² The imbalanced gender ratio caused by the one-child policy has made it hard for Chinese youth to marry.

The one-child policy has also led to the problem of an aging population. The percentage of China's elderly population increased from 5% in 1982 to 13.26% in 2010. China became an aging country in 1999 when the elderly population reached 10%.⁷³ This phenomenon has caused the labor force to be increasingly scarce, especially in the long term. It also causes increased social pressure for the Chinese youth, due to their having to support an aging population combined with a declining desire to have children. Furthermore, this phenomenon could lead to a situation in

⁷⁰ Chinese National Bureau of Statistics (国家统计局), *Zhongguo Tongji Nianjian 2011 (中国统计年鉴 2011)* 44 (2011).

⁷¹ Tian Xueyuan (田雪原), *Zhongguo Renkou Zhengce 60 Nian (中国人口政策六十年)* 280 (2009).

⁷² Zhu Qiulian (朱秋莲), *Jianguo Yilai Dangde Renkou Shengyu Zengce Bianqian Yanjiu (建国以来党的人口生育政策变迁研究)* (2013).

⁷³ Id

which China's growth rate is zero or even negative. Hence, the Chinese government changed the original one-child policy to the two-child policy in 2015.

4 THE RELATIONSHIP BETWEEN THE ONE-CHILD POLICY AND INTERNATIONAL HUMAN RIGHTS LAW

4.1 ONE-CHILD POLICY AND ICCPR, CRC, AND CEDAW

China signed the "International Covenant on Civil and Political Rights" in 1988, the "Convention on the Rights of the Child" in 1990, and the "Convention on the Elimination of All Forms of Discrimination against Women" in 1980. Thus, China has already joined and accepted three basic international human rights protection treaties. There is no doubt that China must abide by the provisions of these international treaties and take the initiative to shoulder the obligations entrusted by these treaties. However, the one-child policy comes into conflict with China's international human rights duties. From the point of view of many international scholars and politicians, this contradiction is the main source of criticism regarding China's flawed protection of human rights.

The legislative purpose and central focus of China's one-child policy should not be critiqued. In order to alleviate the disparity between a large population and limited resources, China had to restrain its own nation's desire for a greater birth-rate. Not only is it responsible for China itself, but it also makes a great contribution to the world and the "Food and Agriculture Organization of the United Nations".

China's flawed human rights record associated with the one-child policy mainly stems from the punishments for violators of the law. In this paper, I only discuss and analyze some of the bigger flaws in China's human rights protections as a result of the one-child policy.

First, according to Article 24 of the ICCPR,

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State. 2. Every child shall be registered immediately after birth and shall have

a name.⁷⁴ 3. Every child has the right to acquire a nationality.

In China, one of the common punishments for couples who failed to pay the required social maintenance fine for their illegal additional child(ren), is that Chinese government would refuse to register the illegal additional newborn child(ren). Thus, in China's relatively poor rural districts, this kind of punishment would cause many children to lack residence registration. This kind of punishment obviously violates the basic requirements of the ICCPR.

Second, the Chinese government has performed its obligations to ensure the equality of men and women and to combat discrimination against women. According to Article 1 of CEDAW,

the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.⁷⁵

In China, women enjoy the same political, economic and educational rights as men. Even the punishments for those who violate the one-child policy, would apply to both men and women. Although forced abortion was a common punishment method utilized by low-level family planning officers, the husband, as the other party of the couple, would be subject to forced vasectomy surgery. Thus, the Chinese government has carried out its duties under CEDAW.

Finally, the CRC has many regulations and requirements which are similar to those of ICCPR. For example, Article 7 states "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents."⁷⁶ The conflict between the one-child policy and these types of treaty pro-

⁷⁴ International Covenant on Civil and Political Rights, China, Oct. 5 1998 https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch_IV_04.pdf

⁷⁵ Convention on the Elimination of All Forms of Discrimination against Women, China, July 17, 1980, https://treaties.un.org/doc/Treaties/1981/09/19810903%2005-18%20AM/Ch_IV_8p.pdf

⁷⁶ Convention on the Rights of the Child, China, Aug. 19, 1990, https://treaties.un.org/doc/Treaties/1990/09/19900902%2003-14%20AM/Ch_IV_11p.pdf

visions have already been discussed above. The current controversy regarding the one-child policy as a violation of human rights focuses on whether a fetus should be deemed a child and enjoy the same rights and protections of CRC. Whether or not a fetus can be considered as child, forced abortion as a punishment method of the is indeed inhumane. In addition, this kind of punishment violates the basic principles of general international human rights law. However, with the improvement of Chinese laws in 2002, the phenomenon of forced abortion punishment was largely replaced by economic punishments (e.g., fines). China has made significant progress in this respect.

5 CONCLUSION AND THE FUTURE OF THE ONE-CHILD POLICY

In 2017, Chinese population growth rate decreased to 0.53%, the total population was 1 billion 390 million 80 thousand, the number of people over 60 years old was over 230 million, and males comprised 51.9% of the population.

The adverse consequences of the long-term implementation of the one-child policy has been discussed in depth. Even the two-child policy, which replaced the original one-child policy in 2015, has still not stopped the aging population problem, nor has it heavily stimulated the Chinese population growth rate. China stands once again at the crossroads of population and development policy. Should the government seek greater control over the situation or relax its restrictions?

With the Chinese economic model successfully transformed from a mainly agricultural economy to a mainly industrial economy, the population growth model is likely to remain stable, and it will be impossible to return to the explosive growth period. To maintain China's continuous development and basic national security, it is necessary to open up the population policies and end the previous restrictive policies. Perhaps, this will be the near-future nature of China's one-child policy.

REFERENCE

Chinese national bureau of statistics(国家统计局), *Zhongguo Tongji Nianjian(中国统计年鉴 1986)* (1987).

Chinese national bureau of statistics(国家统计局), *Zhongguo Tongji Nianjian 2007(中国统计年鉴 2007)* (2007).

Chinese national bureau of statistics(国家统计局), *Zhongguo Tongji Nianjian 2011(中国统计年鉴 2011)* (2011).

Confucius (孔子), Zhou Yi, Xu Gua(周易.序卦) (written in around 483 B.C.).

Confucius (孔子编撰), Shi Jing, Da Ya, Si Qi (诗经 · 大雅 · 思齐) (compiled in around Six Century B.C.).

Confucius and his student Zeng Zi(孔子及其弟子), Liji. Daxue (礼记.大学) (around fourth century B.C. and third century B.C.).

Convention on the Elimination of All Forms of Discrimination against Women, China, 17th July of 1980.

Convention on the Rights of the Child, China, 29th August of 1990.

Dai Sheng (戴圣), Li Ji. Li Yun Pian (礼记.礼运篇) (written in around 35-20 B.C.).

Dong Zhongshu (董仲舒), Ch'un-ch'iu fan-lu (春秋繁露), (around 145 B.C.).

Dou Jianchun (豆建春), *Zhongguo Lishishangde Renkou Zengzhang--解释因素及其长期效应因素分析* (2015).

Du Fu(杜甫), Bing Che Xing(兵车行) (around from 750 A.D. to 756 A.D.).

Duke of Zhou (周公旦), Zhou Li (周礼) (finished in around 1022 B.C.).

Gao Tang Sheng(高堂生编撰), Yi Li. Sang Fu. Zi Xia Zhuan(仪礼·丧服·子夏传) (compiled in around 190 B.C.).

Ge Jianxiong(葛剑雄), *Zhongguo Renkou Fazhan Shi(中国人口发展史)*

(1991).

International Covenant on Civil and Political Rights, China, 5th October of 1998.

Jianguo Yilai Zhongyao Wenxian Xuanbian(建国以来重要文献选编) (1993).

Lao-tzu(老子), Tao Te Ching. (道德经.) (Written in around 500 B.C.).

Li Chengrui(李成瑞), Dayuejin Yinqi De Renkoubiandong(大跃进引起的人口变动) (1998).

Liu Wen (刘韞), Xianqin Zhuzi Renkouguan Lvelun (先秦诸子人口观略论) (1995).

Mao Zedong(毛泽东), Mao Zedong Xuanji(毛泽东选集) (1991).

Mencius and his student(孟子及其弟子), Mencius. Lilou Shang(孟子.离娄上) (written in around 290 B.C.).

Mencius and his students (孟子与其弟子), Meng Zi. Teng Wen Gong Xia (孟子.滕文公下, (written in around 290 B.C.).

Min Haiguan Shinian Baogao(闽海关十年报告) (1901).

Mozi(墨子), Mozi.Jian An(墨子.兼爱) (Written in around 400 B.C.); Mozi. Gongshu(墨子.公输) (Written in around 400 B.C.).

Mozi(墨子), Mozi.Jieyong(墨子.节用) (Written in around 400 B.C.)

Qu Zhenwu(瞿振武), 20Shiji 50Niandai Zhongguorenkou Zhengce De Huigu Yu Zaipingjia (20世纪50年代中国人口政策的回顾与再评价) (2000).

Shang Yang(商鞅), Shang Jun Shu. Lai Min(商君书.徠民) (written around 345B.C.)

Song Zhenhao(宋镇豪), Xiashang Shehui Shenghuo Shi(夏商社会生活史) (1994).

Sun Muhan(孙沐寒), Zhongguo Jihuashengyu Shi(中国计划生育史) (1990).

Tian Xueyuan(田雪原), *Zhongguo Renkouzhengce Liushinian(中国人口政策六十年)* (2009).

Wang Quanwei(王泉伟), *Mingdai Nannv Bili De Tongji Fenxi(明代男女比例的统计分析)* (2010).

Wang Youxing(王有星), *Shaoshu Minzu Jihuashengyu Cutan(少数民族计划生育初探)* (1998).

Wikipedia Wang Hongsheng (王鸿生), *Zhongguo Lishi Zhiluan He Xiandaihua Jincheng Zhongde Renkouyinsu (中国历史治乱和现代化进程中的人口因素)* (2012).

Wu Qungan(吴群敢), *Zhongguo Shehuizhuyi Jingji Jinshi(中国社会主义经济简史)* (1985).

XIANFA art. 25 (1982) (China) and XIANFA art. 49 (1982) (China).

Zhang Sun Wu Ji and other Tang dynasty officers(长孙无忌以及其他官员编撰), *Tang Lv Shu Yi (唐律疏议)*, (compiled and fixed in 650 A.D.).

Zhongguo Renkou Nianjian 1985(中国人口年鉴 1985) (1986).

Zhonghuarenmigongheguo Renkou Yu Jihuashengyu Fa (中华人民共和国人口与计划生育法) [population and family planning law of People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., Dec. 29, effective Sep. 1, 2002).

Zhu Qiulian(朱秋莲), *Jianguo Yilai Dangde Renkou Shengyu Zengce Bianqian Yanjiu(建国以来党的人口生育政策变迁研究)* (2013).

Recebido em: 01/09/2018

Aceito em: 01/10/2018