

Women's Vulnerability and State Responsibility in China's Family-Planning Policy

Fang Gao* Ruina Feng

Law school, East China University of Political Science and Law, 1575 Wanhangdu Road

* E-mail of the corresponding author: gaofang0624@163.com

Abstract

Women's fertility vulnerability is a pervasive social issue that requires efforts from multiple government departments and social groups to solve. However, China has traditionally focused on the reproduction function of the family and marginalized women's reproductive autonomy and related rights. Based on the overview of the existing literature, we have a better understanding of the fertility experience of Chinese women when facing the fertility policy, focusing on their continued harm, neglect and vulnerability during the process of changes in the fertility policy. The vulnerability of Chinese women to fertility is caused by women's socio-economic status, the concept of marriage and childbirth in society, the control of the family planning policy. We suggest the amendment of the family-planning policy should be accompanied by a series of arrangements for family support, such as establishing a reproduction-friendly environment, promoting social gender consciousness in all aspects, reducing women's household burden, and actively eliminating gender discrimination in the workplace.

Keywords: family planning, women, vulnerability, civil law, family support

DOI: 10.7176/JLPG/110-09

Publication date: June 30th 2021

1. Introduction

The Civil Code of the People's Republic of China was adopted and promulgated at the third Session of the 13th National People's Congress of the People's Republic of China on May 28, 2020 (The National People's Congress of the People's Republic of China, 2020). One of the most noteworthy aspects of the Civil Code in the area of family law was the cancellation of the family-planning policy, once the core content of China's family law. The cancellation of the family-planning policy means a transformation of China's population policy and a major change in the field of family law that may even change the new family structural pattern formed in China since the implementation of the one-child policy nearly 40 years ago (Shi & Li, 2020). The shifting perception of Chinese people's cognition of family and marriage functions as well as the causes of the changes in China's population legislation are under discussion (Yang & He, 2014).

At present, research on China's family-planning policy is mostly conducted from the perspective of demography and economics. Demographic research generally focuses on Marxist population reproduction theory or draws lessons from Western population theory to study Chinese family-planning policy (Chen, 2020; Lu, 2020; Luo & Song, 2020; Zhu, 2020). Studies conducted from the perspective of economics generally analyze the changes and main problems in China's population structure and characteristics, predict the population size and discuss the impact of population structural changes on social and economic developments (Li & Zhou, 2018). There are also academic research on fertility policy that focus on low fertility desire of women (Li, Yang, & Liu, 2020).

However, few studies have analyzed the whole process of the family-planning policy entirely from the perspective of women and how women have entered a state of vulnerability due to the gradual withdrawal of state responsibility for reproduction along with economic reform. Furthermore, no matter how turbulent the family-planning policy, the core group involved in it—women—has been absent throughout the changes in policy. From the population-boosting policy to the one-child policy and then the two-child policy, women benefited little from changes in the policy, but the harms were multiplied (Zhu, 2020). From forced abortions to workplace disadvantages, women seem to have been the greatest victims of population policy shifts.

The purpose of this paper is to explore the process and causation of family-planning policy changes, analyze the policy's negative impact on women, expound on the double harm to women caused by the implementation of the family-planning policy and changes in it, and summarize the reasons for the present low fertility willingness of women. Women's requirements for a decent quality of life and consciousness raising have been accompanied by a decline in fertility desire (Guo & Tian, 2017; Li & Zhou, 2018).

Family law should not be the last territory of the patriarchy. Choosing whether to give birth is a right for women rather than a bargaining chip for the development of a male-dominated society. Only by enhancing the state's responsibility, including the establishment of a reproduction-friendly environment, promoting social gender consciousness in all aspects, reducing women's household burden, and actively eliminating gender discrimination in the workplace can women's fertility desire be improved and the gender structure balanced.

2. The Law of Family Planning

2.1 One-Child Policy and Sacrifice of Women

In ancient China, pronatalism has been passed down as customary law. At the beginning of the founding of the People's Republic of China, the policy of encouraging childbirth continued to be adopted. The government encouraged childbearing through methods such as rewarding mothers who had more children and emphasizing “strength in numbers”. Advances in health and improved living conditions led to higher birth rates, lower death rates, and longer life expectancy. China's population exploded from 540 million in 1949 to 960 million in 1978 (National Bureau of Statistics of China, 2020). This explosive population growth imposed great pressure on society at that time that was reflected in many aspects, such as food, clothing, housing, transportation, education, health, and employment. In the early 1970s, the government began advocating the slogan “Only one child will do, two children is ideal, three children are too many”. In the late 1970s to 1980s, China began to formally implement the one-child policy. In September 2002, the Population and Family-Planning Law came into force, and the one-child policy was recognized by the law.

The one-child policy effectively controlled the rapid population growth and eased the pressure of the population on resources and the environment, imposed state constraints on the consumption of the new population and increased the accumulation of national funds; and reduced the working-age population and the pressure on employment. At the same time, the one-child policy was also associated with extensive social problems, particularly for women. Gender imbalance is exacerbated by family planning in China (Zhang, 1997). Many pregnant women abort female fetuses because Chinese parents traditionally prefer boys. The ratio of male to female babies was out of balance and rose from 107.4:100 in 1980 to 121.1:100 in 2004 (ChinaTransparency.org., 2015). Baby girls are abandoned or killed after birth, sex selection is performed before birth (through ultrasound and other means to identify the sex of the fetus, girls are discovered and aborted), or newborn girl infants are not registered after birth (Burns, 1983).

In population and family-planning law, the state encouraged families to have only one child per couple: “Couples of childbearing age are expected to conscientiously implement family planning, contraception, and birth control measures.” However, the reality is that women were forced to have contraceptive devices, tubal ligations, and abortions.¹

The realization of a couple having only one child in China was a large change to traditional customs. Ironically, a large number of Chinese women were indirectly granted the right to work and participate in social activities under the premise that their birth right was tightly restricted. The status of women also improved in terms of the rules of inheritance law. Individuals and families accepted the birth restrictions and, following the law and family-planning regulations, regarded the only child in the family as the heir (regardless of whether that child was a boy or a girl). China's patriarchal inheritance rules were scattered within one generation. Within a family, a brother may still have a privilege of inheritance over his sister, but an uncle or nephew no longer has a superior right of inheritance over a biological daughter. Family shrinking is also a leap forward in China's development towards a modern, equal society.

2.2 Two-Child Policy and Danger to Women

China's working-age population experienced an unprecedented absolute decline in 2012 (The State Council Information Office of the People's Republic of China, 2012). At present, the adverse impact of the low birth rate on the economy and society is beginning to show. China's demographic dividend has run out. The aging of society, rising labor costs, increasing social security pressure, and other issues have emerged. The government's immediate solution to these problems is to increase the population, and experts believe that population policies that encourage childbearing will help ease the social pressure caused by China's aging population (Liu, 2013).

In 2010, the number of one-child families in China reached 150 million. The sixth census revealed that the total fertility rate in China was only 1.18%, and the situation was even more serious in large cities such as Beijing (0.71%) and Shanghai (0.74%) (Ji, Wang, Liu, Xu, & Zheng, 2020). In November 2011, a policy allowing couples to have a second child if both parents were the only child in their family was fully implemented across China. In 2013, the policy allowed couples to have a second child if either member of the couple was the only child was implemented. In 2016, China implemented the two-child policy countrywide.

However, with rising incomes and urbanization, fertility continued to fall even after China fully implemented the two-child policy. The statistics showed that 17.23 million Chinese infants were born in 2017—630,000 fewer than in 2016. The birth rate was 12.43 per thousand, less than 0.52 per thousand, since 2016 (Zhang, 2018).

For women, the natural protagonists of fertility, balancing work and family is a perennial topic in their

¹ In China, women are the main object of contraception and birth control. More than 85% of contraceptive operations are performed on women. According to the “China Health Statistics Yearbook 2010,” from 1980 to 2009, there were 286 million intrauterine implants for women, 99 million tubal ligations for women, and 275 million abortions.

lives. Women undertake the task of reproduction, but the state impose women's childbirth costs on employers and female employees through legal coercion, inevitably leading to units with more female workers bearing higher female fertility costs and directly leading employers to prefer male employees. With only one child, there was a significant reduction in housework and dependent care, allowing women more time to work. Now, women are again facing a pronatalist policy that will place them in a more fragile labor relationship. The extra cost is an important reason why women face graver employment discrimination.

The prejudice that women face in the workplace is presently very serious, and the family-planning policy shift has led employers to a higher level of fear of the increased costs associated with an increased number of female employees bearing children. The more time women spend giving birth and raising children, the more their status in the workplace will plummet. "Employers don't know how many children you'll have, but in traditional Chinese patriarchal thinking, they tend to guess that you will have more (Lv & Liu, 2015)." Marriage and childbearing are the main factors that lead to employment discrimination against women. The lack of male family roles forces women to devote more energy to family responsibilities, which makes it impossible for them to pursue career opportunities and achieve career development on an equal footing. To some extent, the one-child policy alleviated this contradiction. Investigation showed fathers have become more nurturing and child-centered in caring for their only child (Jankowiak & Moore, 2017).

Now, the two-child policy come, but the corresponding public services are deficient. For individual women, the best early choice is to have fewer children. To compete with men in the labor market, women must leave childrearing responsibilities to more vulnerable people at home, such as grandparents, or they must choose to escape these responsibilities by paying for childcare. This explains why so many women are now refusing to have children or marry so that they can secure a place in the labor market.

With the changing times, China's population structure is also changing, so it is inevitable that the population policy will be adjusted to meet the political needs of the country. However, with the development of the economy and society, the age of first marriage and first childbirth of Chinese women has been constantly delayed, and fertility intention has also been declining (Guo & Tian, 2017). Understandably, the state adjusts population policy as needed, but it is nonetheless unfair for women to be doubly or triply victimized.

3. Women's Responses to Marriage and Procreation

Traditional Chinese policies, systems, and social value systems regarding families all revolve around the core issue of fertility. The dominant belief is that fertility is not only a private matter but also a major issue concerning the long-term stability of the country (Yang & Sun, 2020). In Chinese feudal society, women existed only to carry on the family line as male vassals and fertility tools. This situation was greatly improved after the founding of the People's Republic of China in 1949. However, the fact that women still do most of the housework and care for the elderly and children has been overlooked by the "triumph of liberation" (Zhang, Fu, & Li, 2018).¹ Moreover, patriarchal thought has not disappeared, and it is still customary for a son to be responsible for supporting his elderly parents in rural areas.

In the current state of social development for women, there is no reason for women to struggle to have children. First, with the economic independence of women, the era of agricultural operations in which children provide labor for families has ended. Women can achieve economic independence in the workplace. Second, concerning the issue of old-age care, although the Chinese tradition is for elderly parents to be supported by their sons, it is the daughter-in-law who takes care of the elderly. For women, family work is just hard work from generation to generation, and having more children will not only harm their position in the labor market but also increase their work in family care. Chinese women have suffered this double loss for too long. Although men are still reluctant to change because the situation is convenient for them, women's consciousness has already been raised.

3.1 Marry Late or Never

According to data released by the National Bureau of Statistics of China and the Ministry of Civil Affairs, the number of marriage registrations in the country in 2018 was 10.108 million couples for a marriage rate of 7.2%, the lowest level since 2013. In 2018, the number of divorce registrations nationwide was 3.801 million couples. While the marriage rate fell for five consecutive years, the divorce rate increased for 15 consecutive years (National Statistical Bulletin on the Development of Civil Affairs, 2018). With the economic independence of women and the improvement of individual cognition, China's post-1970s, 1980s, and 1990s views on marriage have undergone earth-shaking changes on the conscious level.

Why do marriage rates continue to fall? The People's Daily conducted a survey on its microblog platform to determine the reasons for young people marrying later or not marrying at all. Of the respondents, 29.5% said, "I

¹ Chinese women spend 44.6% of working time doing unpaid labor, such as taking care of their families, compared with 18.9% for men. (China Labor Force Dynamics Survey: 2017 report).

haven't met Mr. or Miss Right", and this reason ranked first. The second most common reason for not marrying was economics, with 23.4% saying they were "unable to undertake family responsibilities". A further 16.5% said they were "enjoying being single". Some female respondents indicated that single women are more selective about marriage because they are financially independent (NetEase, 2019).

From 2006 to 2016, the age of first marriage for Chinese women rose from 23.6 to 26.3, an average increase of 0.27 per year. The age of first marriage for urban women rose from 24.6 to 26.9, an average increase of 0.23 per year (He, Zhang, Zhuang, Wang, & Yang, 2018). In Shanghai, the average age of first marriage for women was 28.4 in 2015 and 23 in 2005. In addition, in 2015, the age of first childbearing for women in Shanghai was 29, which is higher than that in some Western developed countries (Shanghai Women's Federation and the Institute of Sociology & Shanghai Academy of Social Sciences, 2018). From 1990 to 2015, the number of women who had never married rose from 0.2% to 0.4%, a trend that suggests that an increasing number of women are moving from postponing marriage to remaining unmarried (Gu, 2011; Guo & Tian, 2017).

With the popularization of education and the spread of the concept of women's independence, people's attitudes towards late marriage and childbearing have gradually changed. Women's longer educational experience and low pay in their first job has pushed forward the marriage age of women (Ministry of Education of the People's Republic of China, 2019; ScienceNet.cn., 2016).¹

Furthermore, insufficient laws of protection within marriage and illiberal forms of divorce have increased the risks of marriage, in turn discouraging more women from marriage and encouraging them to turn to nonmarriage or more liberal forms of cohabitation. Women cannot easily obtain compensation for domestic work through divorce financial compensation laws. On the other hand, the law against domestic violence was not introduced until 2016, and the actual effect were bad. Marital rape is still not recognized in Chinese law. Marriage and childbearing are special stages in women's lives, and the legal safeguards do not favor women.

Currently, unmarried cohabitation increased for many years in China. According to the China Family Tracking Survey (CFPS), only 1.8% of couples who married before 1970 lived together before marriage, but the number had reached 32.6% after 2000 (China Family Panel Studies, 2013).

3.2 Delay Motherhood or Remain Childless

Delaying childbearing (beyond the age of 35 years) has become a common phenomenon in recent decades. Fertility declines with age, and women will eventually experience infertility after passing a certain reproductive age (Wang & Sun, 2020). The fertility desire of Chinese women has also shown this trend in recent years.

Under the influence of traditional Confucian culture, marriage is still the premise of procreation, and procreation is the implicit responsibility attached to marriage. Under the "binding" model of long-term postmarriage childbearing in China, the age of first marriage not only naturally increases the age of the first childbearing but also reduces the possibility of further childbearing because of the increased risk of childbirth complications.

Women bear the brunt of childbearing and face the loss of their jobs, the costs of coparenting, and the unpredictable rewards of the next generation. Although the one-child policy was gradually relaxed, the fertility rate of Chinese women having a first child has been gradually decreasing since 2010, and the total fertility rate for women having a first child was even lower than 0.6 in 2015 (National Bureau of Statistics of China, 2016). One reason is the increasing proportion of unmarried women in the fertile period of their lives.

Another reason for the low fertility willingness of women is the expansion of economic costs, conflicts between marriage or childbirth and their occupation in workplace reality, and fear of social disconnection or job discrimination after childbirth. Although the Special Provisions on Labor Protection for Female Workers stipulate the protection of female workers, in practice, there is still implicit discrimination related to women's reproduction and female roles per se. According to the third Survey on the Status of Chinese Women in 2010, 10% of women of childbearing age experienced gender discrimination in their employment, compared with only 4.5% of men. Among female college students with job hunting experience, 24.7% said they had encountered unequal treatment. Only 2.2% of working women are in charge of state institutions, party and mass organizations, enterprises, and public institutions. The proportion of men is close to 5% (The 3rd Chinese Women's Social Status Survey Task Team, 2011). Of the 45.45% of urban women who reported the negative impact of childbirth on their employment, more than 30% reported that childbirth had reduced their personal income, over 20% reported that childbirth had reduced their opportunities for vocational training and promotion, and approximately 20% reported that their salary had been cut (8.06%) or that they had resigned or been fired (12.74%) due to childbirth (Yang, 2020).

After the implementation of the two-child policy, the possibility of female employees taking two maternity

¹ In 2016, China's population & labor green paper: the marriage rate of female graduate students dropped significantly from 2000 to 2010. In 2010, the marriage rate for female graduate students fell below 50%. The decline is particularly pronounced between the ages of 25 and 34 years.

leaves and nursing leaves and the fact that women have to balance work and family, causing their time and energy to be more dispersed, have led to an increase in the cost of having a second child.

4. Addressing Female Fertility Vulnerability—from Governance to Support

Rather than using control as the basic response when the population grows too quickly, the state should respond to low fertility primarily with incentives. Reproduction and cultivation tasks have traditionally been associated with marriage and the nuclear family. While "parental responsibility" has increasingly been emphasized in childrearing, the burden of family care and the maintenance of intimate relationships have been and continue to be disproportionately assigned to women, who establish and persist in cultural, social, and market contexts, both legal and nonlegal. This basic and unequal pattern of household division of labor is difficult to change. If we were serious about redistributing the burdens of intimacy or family maintenance, we would need an ideological and structural reorientation of society.

4.1 Unbind Marriage and Procreation

Although women are the subject of individual marriage decisions with strong subjective characteristics, China's unique marriage-fertility chain leaves them in a more vulnerable position in regard to fertility issues. To give women resilience to cope with the fertility dilemma, it is first necessary to give them independent choices with regard to fertility issues so that they can maintain their independent personality in the face of fertility. This requires a systematic change of the social cognition of marriage and childbearing, adaptation to changes in the modern family structure, and the creation of a reproduction-friendly working environment, all of which require support from the state. Collective responsibility should not concede collective control over individual intimate decisions, such as whether and when to reproduce or how to form a family. The government should not blindly encourage women to marry early, give birth early, and act on their fertility. Countries need to consider how to take corresponding measures to ensure that women's interests and independence will not be damaged because of their sex and further eliminate the traditional gender role of women so that women do not have to face disadvantages in the workplace because of marriage or childbirth.

From a more global perspective, marriage and childbearing are not always linked in Europe and the United States, and there is little pressure from law and public opinion to bind marriage and childbearing together. In China, it is a cultural norm that women should devote themselves to the family to prepare for the next generation after marriage. After becoming a mother, women are expected to focus on their children all the time.

Under the one-child policy, parents had to obtain a birth permit (family-planning service certificate) for an unborn fetus, and one prerequisite for obtaining a birth permit was the marriage certificate of the parents. The birth permit (family-planning service permit) indicated that the child was legally a member of society and had rights to various services provided by the state. With the permit, women of childbearing age received free medical services, and the child could also obtain household registration (*hukou*). Therefore, marriage was still the premise of childbirth, and childbirth was the implicit responsibility attached to marriage. In this tight chain of marriage and childbearing, women's marriage choices affected not only their life process but also the social reproduction process. Although China's marriage law stipulates that children born out of wedlock have the same rights as those born in wedlock, the civil rights of children born out of wedlock have actually been in a very awkward position during the implementation of the family-planning policy.

The Chinese chain of marriage and childbearing cuts off the possibility of a woman avoiding marriage and forming a family alone with her children. This essentially also means that women entering marriage will face pressure to bear children. In recent years, the marriage-birth chain has loosened. In 2016, children born out of wedlock or their guardians can sign up for household registration by showing the doctor's birth certificate, and the child can be registered after either the mother or father. Since the dissolution of marriage and the childbearing relationship starts from individual reproductive rights and conforms to the desire for individual freedom in modern times, it is widely supported by women (RFA, 2016). The birth permit and welfare do not depend on the marriage certificate, and the subsidy policy is bound to the individual. The reform of the household registration system is the first step to unbinding marriage from childbearing. To truly realize women's reproductive independence, economic and other pressures need to be addressed.

In the face of women's vulnerability to fertility problems, their ability to cope with risks and the social resources available to them must be considered. National policy initiatives aimed at reducing vulnerability and improving risk-coping capacity, such as strengthening legal safeguards and supporting public services, are also necessary. If women have sufficient resource reserves and allocation, they can better address their vulnerable situation.

4.2 Comprehensive Legal Protection

Instead of assuming public responsibility for women's pregnancy, childbirth, and childrearing, the Chinese government has shifted responsibility to employers, families, and individuals. The lack of state responsibility for

women's reproduction has led to a series of problems, but the state wants to solve the problem of low fertility at the end of the chain by simply calling on women to have more children.

The absence of governmental responsibility is the ultimate cause of the problem. Consider state action in the example of female employment discrimination. To encourage childbearing, the state implemented the two-child policy and issued policies such as extending maternity leave as incentives for childbearing. Detailed rules were prescribed by the provinces. According to Article 25 of the Shandong Population and Family-planning Regulations (2016), female workers who give birth to a second child in Shandong Province can enjoy the legal 98 days of maternity leave as well as an additional 60 days of maternity leave as a reward for giving birth to a second child. However, regarding the maternity allowance for an additional 60 days of maternity leave, who pay the allowance is not clear, and most regions have not included the maternity allowance in social security. The employers do not want to take the responsibility. But the arbitration result of the relevant case has been announced: the employer should pay the additional 60 days' maternity leave salary for female workers with a second child (Yantai Municipal Human Resources and Social Security Bureau, 2019). Enterprises shouldered this part of the obligation increased their burden, aggravated employment discrimination against women in the labor market, and in the long run is not conducive to the development of enterprises and women's equal employment. Employers' discrimination against female employment is the inevitable result of the country shirking its responsibilities.

To cope with the vulnerability of women to childbearing, the government should take the state responsibility. At present, the legal lag in dealing with women's reproductive vulnerability and the absence of government responsibility need to first be solved at the legal level to break the chain of institutional discrimination caused by gender discrimination at the source.

4.2.1 Maternity insurance legislation and taxation policy.

The key reason why the current "Law on Maternity Insurance" fails to solve the problem of female employment discrimination is that it mainly adopts controlling mean. It blindly restricts an employer's behavior through legal responsibility and a supervision system. To reduce the tension between employers and female employees due to fertility problems, incentive policies can be combined with tax law to establish the floating rate and reduction mechanism of taxes and fees. For employers who employ a certain proportion of female employees of childbearing age for a certain period, tax exemptions and rate reductions can be implemented. China can also refer to the practices of developed countries.¹ Small and microenterprises whose number of employees and amount of registered capital do not meet the statutory standards can be exempted from the obligation to bear the main childbearing costs of their employees. Instead, the maternity allowance and the right to reemployment of female employees should be guaranteed through state financial subsidies.

Both families and individual women should be subsidized in having children, and fiscal and tax policies that make it easier for families to take care of children should be implemented. As demonstrated by the Earned Income Tax Credit (EITC) in the US and Working Tax Credit (WTC) in the UK, childcare allowances can be used in combination with tax relief for working mothers. The State Council's 2018 Notice on the Interim Measures for Special Additional Deduction of Individual Income Tax is a positive sign, but the implementation of the policy has just started. Additionally, a corresponding system of male parental leave should be explored to guide husbands to invest more time in raising children to alleviate to a certain extent the penalty imposed on women for childbirth (Adda, Dustmann, & Stevens, 2017). In China's maternity leave system, the gender equality factor of the family role is not included, and the mother's family responsibility for raising infants is emphasized, while the father's responsibility is ignored. Although many provincial family-planning regulations currently stipulate nursing leave of varying durations for fathers,² they have not yet been translated into national legislation. At present, such leave is used only as a reward for late childbirth or legal childbirth. Incentive measures should be translated into statutory rights through national legislation, establishing the family responsibilities of new fathers to care for their wives and infants, and explicit and independent male paid nursing leave should be incorporated into the Law on Maternity Insurance and the Labor Law.

4.2.2 Employment nondiscrimination act.

In the context of the two-child policy, there is no special law on the protection of women's reproductive rights and interests. Existing antidiscrimination provisions are scattered throughout the Constitution, the Law on the

¹ In the United States, the Family and Medical Leave Act requires employers of more than 50 persons to assume the burden of maternity. In New Zealand, Russia, and other countries, the "salary" of paid maternity leave is directly allocated by government finance. In 2012, the European Commission proposed a target of 40% women in middle and senior management of listed companies in the EU by the end of 2019, encouraging companies to introduce quotas.

² China has 26 provinces with local policies or regulations providing male nursing leave. The minimum paternity leave is 7 days, the maximum is 30 days, and in most areas, it is 15 days. The salary system during paternity leave varies, and bonuses and welfare payments remain the same. In some regions, paternity leave for men can be transferred to maternity leave for women, with women taking leave instead of men.

Protection of the Rights and Interests of Women, the Labor Law, and the Employment Promotion Act. China has no specific antidiscrimination law. The Labor Law and other laws make some provisions only in principle with no clear definition of sex discrimination in employment nor the subject of liability and punishment. The implementation mechanism of antiemployment discrimination is lacking, and executive agency is absent. China needs a special law on antidiscrimination in employment to define, standardize and classify employment discrimination; define the responsibilities of illegal employment units and supervisory departments as well as intensity of punishment; and improve the legal basis for equal employment of women. Based on paying equal attention to gender experience and gender equality, it is necessary to draw a clear line between gender influence and equal treatment so that women can obtain targeted legal protection. To solve the problem of hidden discrimination, we can adopt the principle of "burden of proof reversed".

4.2.3 Family law.

Nowadays, women still have to shoulder most or even all of the housework after going to work outside the home. The division of labor within the family based on gender has been taken for granted, which has become a key factor hindering the realization of gender equality. China's Marriage Law of 2001 established the domestic worker's compensation system through agreed separate property systems. However, according to the current situation of marital and family property relations in Chinese society, more than 80% of couples are under the joint property system, which means that the party who has paid for more domestic work in the divorce cannot file the domestic work compensation claim. The new Civil Code responds by removing restrictions on the division of property in domestic work compensation, recognizing the value of unremunerated domestic work should be compensated. But domestic labor compensation still encounters problems such as nonuniform compensation standards, unclear calculation methods and difficulties in providing evidence, which make it difficult to advance at the judicial level.

In order for women to receive compensation for domestic work. First, the couple's economic situation and comprehensive ability should be considered, including health status, specific age, education level, working ability, income, and developmental expectations. A comprehensive assessment of the compensation amount should be made based on the living standard of the place of residence. Experts have proposed a formula to calculate compensation: the amount of housework compensation is equal to half the income gap in the couple's annual income, multiplied by the number of years the couple has been married (Wang, 2014). The issue can also be addressed in judicial practice. To ensure the actual granting of domestic labor compensation, when a payer is remiss in performing his obligations, a complete set of enforcement measures should be established to ensure that the person subjected to execution pays the domestic labor compensation promptly through property guarantees or personal credit investigation records.

4.3 Strengthened Public Services

China's current supporting level of public services has been gradually established and improved along with the implementation of the one-child policy 30 years ago. There are still some deficiencies in supporting the only child, let alone in dealing with an increase in the number of children in the family. A study reported that China will need nearly 100,000 more maternity beds every year to meet the demand (Yang et al., 2016). Statistics from the World Health Organization and UNFPA showed that in 2015, there were 23 nursing and midwifery workers for every 10,000 people in China, and only 59% of the need for midwifery services was met. According to the WHO, the ratio of midwives to women giving birth in developed countries is approximately 1:1000, while in China, it is 1:4000, with a midwife gap of approximately 200,000 (United Nations News, 2015).

There is a large gap between the pronatalist policy and the supply of social public services. The current lack of social support shows that the government has reduced its responsibility for procreation, and the cost of the reduction will ultimately be borne by employers and families. During the planned economy period, the work of childcare was undertaken by enterprises or collectives, and the cost of childcare was borne by the state. With the reform of the economic system, enterprises became responsible for themselves. The government has pushed preschool education services to society, but society has no conditions for undertaking the function of nurseries, so the responsibility of caring for infants aged 0-3 is borne almost entirely by families. Due to the lack of marketization policies for childcare institutions, the imperfect social insurance system and the disordered operation of the childcare service market, high-quality childcare resources are extremely scarce.¹

4.3.1 Childcare services for children aged 0-3.

At present, the provision of childcare services for children aged 0-3 seriously lags, and the enrollment rate of

¹ Preschool education services are basically early education agencies. The early education agencies in the market are aimed mainly at infants aged 0-6. They develop different courses according to the age of infants, focusing mainly on sports, art and music. However, because of the high cost, early education agencies charge very high fees. (YoKID Early Education Agency costs approximately 100,000 yuan per year and 16,000 yuan per month for full-day class tuition. https://m.sohu.com/a/252817474_616887/)

children under 3 years old in various childcare institutions in cities is only 4.1%. In developed countries, the rate is between 25% and 55% for children under the age of three. The results of a large sample survey in Beijing showed that 30% of stay-at-home mothers and more than half of working mothers require childcare services (The National Health Commission, 2020). Public childcare institutions and paid substitutes for domestic work in the market are the choices of professional women for reducing their domestic work time. Therefore, the government can effectively share the cost of the female part of childbirth by constructing a childcare welfare system. At present, basic infant and childcare institutions, children's education and other infrastructures such as libraries and gymnasiums need state support.

Moreover, preschool education has not been included in compulsory education in China, and there is an insufficient supply of childcare resources for children aged 0-3. Although various early education agencies have emerged, ordinary families cannot afford the high cost. Early education between the ages of zero and three is now a gray area, with no ministry of education to permit the operation of childcare facilities. No department is responsible, and there is neither departmental certification nor departmental supervision. The second aspect is the site problem. The shortage of land in central urban areas means that schools have high operating costs and no outdoor activity space. The third problem is the supply of teachers. Preschool teachers for children aged 0-3 do not have the qualifications of teachers, so they have unstable salaries. The fourth problem is that of responsibility because children's safety problems frequently occur.

In the face of these problems, the Chinese government has expressed its commitment to sharing the cost of childrearing and has committed to introducing comprehensive measures to solve the problem of childcare for children aged 0-3.¹ Although still in its infancy, the construction of a public childcare service system is already being planned. At present, the government needs to incorporate childcare services into the overall plan for national economic and social development, vigorously develop the childcare market, encourage private capital to invest in the construction of various childcare institutions, and introduce different levels of childcare services to meet the needs of families at different economic levels. At the same time, the government should increase its financial input and set up special funds for childcare to support the development of various types of childcare institutions. At present, China's preschool education funds account for only approximately 1.3% of the entire governmental education expenditure, while developed countries generally reach 3%, and France and Denmark reach 11.1% and 10.6%, respectively. Therefore, given the current infant care problems, the government should increase its financial input, increase the supply of childcare services of various social natures, and reduce the burden of family care.

4.3.2 Encourage family-friendly workplaces.

In addition to providing parents with adequate paid parental leave, paid nursing leave, high-quality and affordable childcare, and child allowances, governments should also encourage employers to allow telecommuting, flexible working, family-friendly and supportive leadership, and mother-child lounges in offices. Workplace family-friendliness has a large impact on a woman's experience and willingness to have children, and offering flexible work provides a better balance between family and work life.

Companies are often willing to become more competitive employers. Building a family-friendly workplace that provides decent work for employees and supports and helps them care for their children is a contribution both to families and society. At the same time, it is a very good way for enterprises to retain and attract talent.

Government guidance and regulation are important in building family-friendly workplaces. For example, concerning the implementation of paid maternity leave, voluntary measures taken by enterprises have limited effects. The government should issue corresponding policies to guide and supervise implementation by enterprises. For enterprises of small scale and limited capital, the government can formulate different and easily referenced standards according to the enterprise scale. In addition, the government should take the lead in implementing family-friendly policies in its own workplaces. Balancing work and family is for everyone, and the responsibility should be shared by government, employers, and families.

¹ In 2019, The General Office of the State Council issued "about town village form a complete set of the kindergarten management work notice, for there is no plan supporting kindergarten, or inadequate planning, or there is a plan, but construction does not reach the designated position, request strictly in accordance with the standard collocation construction around the kindergarten, through fill establish, rebuilding or nearby construction, purchase, and others. Supporting kindergartens in the community must be public kindergartens or entrusted kindergartens for universal benefit, and for-profit kindergartens shall not be established. That same year, promulgated by the State Council "about promoting the development of infants and young children under the age of 3 on care services guidance," policies and regulations to promote the development of infant and child care service systems and standard and service supply systems were established and improved, and the enthusiasm of social forces and a variety of forms to carry out infant care services were fully mobilized, gradually satisfying people's demand for infant and young child care services.

5. Conclusion

The relationship between the family-planning policy and women is not an issue of the policy itself, is not an issue of gender discrimination against women already formed by employers, and is not an issue of how women choose. Rather, it is an issue of the state needing to take more responsibility in the process of social governance. A close examination of changes in China's family-planning policy demonstrates how the governance policy framework for fertility regulation fails to consider the unique role of women in society. A framework lacking state responsibility that impractically calls on women to have more children will never be able to address low fertility and ongoing discrimination against women in the workplace. It is the government's evasion of responsibility for reproduction that causes and exacerbates the problem of gender inequality. The harmful social effects of entrenched gender inequality make it imperative for academics and policymakers to acknowledge that a return to government responsibility for childbirth and women is the ultimate solution. A single adjustment of the family-planning policy will not ease the risk of an aging population with fewer children but will continue to harm the interests of women and exacerbate gender imbalance.

Conflict of Interest

Authors declare that there is no conflict of interest regarding this research.

Compliance with Ethical Standards

All procedures followed in this survey involving human participants were in accordance with the ethical standards of Research Training Development Centre, Sharda University, Greater-Noida, Uttar-Pradesh, and also in conformity with the 1964 Helsinki declaration (as amended).

Acknowledgement

This work was supported by the Overseas visiting program for Ph.D. candidate of East China University of Political Science and Law [grant number 172050039].

References

- Adda, J., Dustmann, C., & Stevens, K. (2017). The career costs of children. *Journal of Political Economy*, 125(2), 293-337.
- Burns, A. (1983). Family policies in China. *Australian Journal of Law and Society*, 1(2), 80-99.
- Chen, Z. (2020). The fortress policy advocacy alliance and China's major policy adjustments-based on the analysis of the changes in family planning policies in recent years. *Chinese Administration*, (8), 68-73+148.
- China Family Panel Studies. (2013). *China people's livelihood development report 2013*. Retrieved from <http://www.iss.pku.edu.cn/cfps/xgxw/cfpsdt/1292807.htm>
- ChinaTransparency.org. (2015). *Family planning is to blame for the imbalance between men and women*. Retrieved from <http://www.ogichina.org/article/100/23760.html>
- Gu, B. (2011). Research on the relationship between fertility willingness, fertility behavior and fertility level. *Population Research*, 35(2), 43-59.
- Guo, Z., & Tian, S. (2017). The influence of late marriage on the low birth rate of contemporary young women. *Youth Studies*, (6), 16-25+91.
- He, D., Zhang, X., Zhuang, Y., Wang, Z., & Yang, S. (2018). Report on China's fertility status from 2006 to 2016-based on the analysis of the 2017 national fertility status sample survey. *Population Research*, 42(6), 35-45.
- Jankowiak, W., & Moore, R. (2017). *Family life in China*. Malden, MA: Polity Press.
- Ji, Y., Wang, H., Liu, Y., Xu, R., & Zheng, Z. (2020). Young women's fertility intentions and the emerging bilateral family system under China's two-child family planning policy. *China Review*, 20(2), 113-142.
- Li, J., & Zhou, L. (2018). China's population policy and population structure and its future development trends. *Economic Perspectives*, (12), 17-36.
- Li, Y., Yang, Y., & Liu, Y. (2020). Fertility, care and work-a survey report on the fertility and care responsibilities of professional women in Xi'an under the background of the "two-child" or "multi-child" policy. *Anti-Discrimination Law Review*, 277-339.
- Liu, Y. (2013). On the current situation and prospect of China's population development-based on the sixth population census. *Business*, 14(2013), 339.
- Lu, J. (2020). The characteristics, impact and response of the era of negative population growth. *Journal of Fujian Provincial Committee Party School of CPC (Fujian Academy of Governance)*, (1), 38-47.
- Luo, C., & Song, X. (2020). Chinese family's fertility choice in the era of post-family planning and the relevant policy orientatio. *Journal of Yunnan Normal University (Philosophy and Social Sciences Edition)*, 52(2), 84-90.
- Lv, H., & Liu, W. (2015). The "maternity insurance law" adjusts and reduces female employment discrimination. *China Labor*, (10), 70-74.
- Ministry of Education of the People's Republic of China. (2019). *Education statistics for 2019. Basic situation*

- of the country*. Retrieved from http://www.moe.gov.cn/s78/A03/moe_560/jytjsj_2019/qg/
- National Bureau of Statistics of China. (2016). *Population and employment statistics department of national bureau of statistics: China population (and employment) statistical yearbook (1991-2016)*. Beijing, China: China Statistics Press.
- National Bureau of Statistics of China. (2020). *China statistical yearbook*. Beijing, China: National Bureau of Statistics.
- NetEase. (2019). *2018 China divorce rate, China marriage rate data report*. Retrieved from <https://dy.163.com/article/EL86FVJF05317STN.html;NTESwebSI=C13F63F481AED4D550D856B8B0705D79.hz-subscribe-web-docker-cm-online-rpqqn-8gfzd-u2rlj-5df95c7slgq-8081>
- RFA. (2016). *The tied uterus: The dilemma of Chinese single women's reproductive rights*. Radio Free Asia. Retrieved from <https://www.rfa.org/mandarin/zhuanti/fuyouluntan/women-11182016102818.html>
- ScienceNet.cn. (2016). *The report focuses on "leftover women": The higher the degree, the more difficult it is to find a corresponding spouse*. Retrieved from <http://paper.sciencenet.cn/htmlnews/2016/12/362377.shtm>
- Shanghai Women's Federation and the Institute of Sociology, & Shanghai Academy of Social Sciences. (2018). *Research report on women's development in the 40 years of reform and opening up in Shanghai*. Retrieved from https://www.shanghai12345.com/html/2018/xinwen_1128/351.html
- Shi, Y., & Li, D. (2020). On the perfection of national legal system of childbearing security-based on the investigation of childbearing age population's willingness to reproduce and its influencing factors. *Journal of Western*, (14), 86-89.
- The 3rd Chinese Women's Social Status Survey Task Team. (2011). *Survey results involving the 3rd Chinese women's social status*. Press conference materials of the State Council Information Office. Retrieved from http://www.china.com.cn/zhibo/zhuanti/ch-xinwen/2011-10/21/content_23687810.htm
- The National Health Commission. (2020). *National health commission: Speeding up the establishment of a care service system for infants and children under 3 years old*. Retrieved from <http://edu.people.com.cn/n1/2020/0107/c1053-31537530.html>
- The National People's Congress of the People's Republic of China. (2020). *The Chinese civil code is born!* Retrieved from <http://www.npc.gov.cn/npc/c30834/202005/1247ca1d376e47e9b02a3053dd438e2d.shtml>
- The State Council Information Office of the People's Republic of China. (2012). *China's working-age population has experienced an absolute decline*. Retrieved from <http://www.scio.gov.cn/34473/34576/34516/Document/1477705/1477705.htm>
- United Nations News. (2015). *International midwife day: Five things about midwives*. Retrieved from <https://news.un.org/zh/story/2019/05/1033761>
- Wang, G. (2014). Practical worries and functional construction of divorce relief. *Journal of Law*, 35(10), 73-83.
- Wang, Q., & Sun, X. (2020). Fertility choices in China under the two-child policy. *International Sociology*, 35(3), 284-311.
- Yang, C., & Sun, X. (2020). The risks, adaptation and policy choices of China's continuing fertility downturn. *Population and Development*, 26(4), 101-106+125.
- Yang, H. (2020). *Research on the mechanism of adjusting and improving fertility policy on urban female employment*. Beijing, China: People's Publishing House.
- Yang, J., & He, Z. (2014). The changes and continuation of the family in the process of social transformation. *Population Research*, 38(2), 36-51.
- Yang, T., Wang, F., Song, L., Zhuang, N., Qiu, J., Wang, L., . . . Yao, N. (2016). The maternity beds demands and gaps under the universal two-child policy. *Chinese Journal of Health Policy*, 9(2), 59-64.
- Yantai Municipal Human Resources and Social Security Bureau. (2019). *The 60-day maternity leave salary for a second-born female employee should be paid by the employer*. Yantai, China: Yantai Municipal Human Resources and Social Security Bureau.
- Yu, X. (2000). Research on population and fertility in China. *Southern Population*, (4), 1-7.
- Zhang, X., Fu, G., & Li, S. (2018). Research on time allocation of housework: Review and prospect. *Luojia Management Review*, (4), 79-96.
- Zhang, Y. (1997). The imbalance, reasons and countermeasures of the sex ratio at birth in China. *Sociological Studies*, (6), 57-70.
- Zhang, Y. (2018). *Birth is a family affair and a national affair*. People's daily online. Retrieved from <http://politics.people.com.cn/n1/2018/0806/c1001-30210179.html>
- Zhu, L. (2020). Fertility policy, opportunity cost and fertility demand: Micro-evidence from China's comprehensive social survey. *Northwest Population*, 41(2), 90-101.