

Women's Reproductive Rights in China under the Three-Child Policy

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Abstract: In recent years, the birth rates have been declining in China. In response to this problem, the government has introduced the three-child policy. Nowadays, many scholars have interpreted and analyzed this policy at a societal level and claimed that it has helped improve the demographics and promote economic development. However, few have studied the policy's impact on women themselves and their reproductive rights. Therefore, by drawing upon information collected from various institutions, such as the China Family Plan Studies and the National Bureau of Statistics, this paper comprehensively assesses the advantages and disadvantages of the three-child policy and explores the current situation of women's reproductive rights. This paper argues that the three-child policy undermines women's reproductive autonomy. The policy also affects the economic and cultural spheres from a political perspective, leaving women in a vulnerable position and thus harming their reproductive rights. To achieve fairness and equality between men and women, this article makes recommendations to the government from three perspectives: political, mental, and economic.

Keywords: Three-child policy, Reproductive rights, Labor rights, Feminism

1. Introduction

In recent years, the birth rates have been declining in China. In 2021, the birth rate was 7.52%, setting a new low since 1949 [1], while the government introduced the three-child policy to encourage fertility. Nowadays, many scholars have interpreted and analyzed this policy, but most of them were concerned with the impact of the policy on society and the country, and few were concerned about women themselves and their reproductive rights. Though the three-child policy helps improve the demographics, and promotes economic development, the benefits to women themselves are not obvious, and women's reproductive autonomy may even be limited. It is crucial to analyze the impact of the three-child policy on women's reproductive rights.

Therefore, this paper comprehensively assesses the advantages and disadvantages of the three-child policy and explores the current situation of women's reproductive rights. It provides directions to finding means to achieve the positive effects of the three-child policy and to ensure women's reproductive autonomy. The paper uses quantitative and qualitative methods to analyze the impact of the three-child policy on women's reproductive rights and the current status of women's reproductive autonomy. The paper analyzes the data collected from existing surveys and compares the difference between women's willingness to have children and the situation of female fertility. The paper also

interprets the background and the promulgation of the three-child policy. Furthermore, by making use of the existing scholarship the study demonstrates the impact of the three-child policy on women's reproductive rights and further discusses the fertility rights of women under the three-child policy.

2. The Introduction of the Three-Child Policy

The problem of aging has become more and more serious in China. Although decision-making arrangements and policy measures such as "single two-child" and "comprehensive two-child" have promoted the rebound in the birth population, due to the continuous reduction in the number of women of childbearing age and the gradual weakening of the "two-child" effect, the birth rate of China's population is still not optimistic. The data of the seventh national census show that in 2020, The birth rate of China's population is only 8.49%, and the total fertility rate of women of childbearing age is only 1.3, which is already at a low level [2].

Population issues determine the lifeblood of a country. In order to solve the problem of the continuous decline in the birth rate, the government introduced the three-child policy to encourage fertility. On May 31, 2021, the Politburo meeting of the CPC Central Committee reviewed the Decision on Optimizing Fertility Policies to Promote Long-term Balanced Population Development. On August 20, the Standing Committee of the National People's Congress voted to amend the Population and Family Planning Law, and the three-child policy was officially incorporated into law.

To increase the willingness of women of appropriate age to have children, the government has amended the Population and Family Planning Act and provides that every couple could have three children [3]. The government adopts financial, taxation, insurance, education, housing, employment, and other support measures to reduce the burden of family fertility, parenting, and education. Also, it ensures the smooth implementation of the three-child policy through supporting measures such as improving the birth system [4].

Admittedly, the three-child policy has many benefits from a demographic development perspective. The policy is conducive to improving the demographic structure, coping with the aging of the population, maintaining the advantages of human resource endowments, and promoting economic development [5]. However, the implementation of the three-child policy imposes many restrictions on women's reproductive autonomy. It also affects women's reproductive rights through the economic, social, and even psychological spheres in a policy manner.

3. The Impact of the Three-Child Policy

3.1. Literature Review

Since other factors related to restricting women's fertility have not been changed, such as post-child employment, maternity leave, and gender discrimination, encouraging childbearing alone will not only not solve the underlying problems, but also limit women's reproductive rights and take advantage of women's bodies in a policy manner for the purpose of increasing the population.

In recent years, many researchers have studied the shortcomings of the three-child policy. Among them, many articles mention the limits of the three-child policy on women's reproductive rights. Some scholars state that there is still a social environment that is detrimental to women's reproductive rights under the implementation of the three-child policy, such as the imperfection of birth insurance and childcare services, the increase in education and living burdens, and the lack of a fertility-friendly labor market [5]. Research on the dilemma and countermeasures of women's rights and interests protected under the three-child policy argues that the three-child policy has brought women to the problems of role conflicts and rights protection. Policies, such as the Constitution and the Employment Promotion Act, lack operability in terms of employment equality. This results in the lack of women's employment rights and makes women very likely to lose their employment after

childbirth, which in turn leads to women's concerns about childbearing [6]. Changes in national fertility policies can cause conflicts between women's labor rights and reproductive rights [7]. Research has shown that family planning can restrict women's reproductive rights [8]. Moreover, women may have to cope with the pressure caused by the three-child policy, such as the problems of advanced maternal age, workplace anxiety, and family burdens [9]. Another study also explores the restrictions on reproductive rights in the reproductive system from a legal point of view and proposes that the Constitution only includes family planning as an obligation for both spouses, but does not mention the protection of citizens' reproductive rights [10].

Women's independent reproductive rights mean that they have the freedom to decide whether to have children or not, and no one should interfere [11]. However, the implementation of the three-child policy subjected women to social, economic, and psychological restrictions associated with reproduction. Besides the three-child policy makes it difficult to judge whether a woman's reproductive behavior is voluntary. On the one hand, when women want to have children, they cannot exercise their reproductive autonomy freely or bear the consequences of having children due to the imperfection of the supporting measures of the fertility policy, heavy economic burdens, and the social environment which is unfriendly to women. On the other hand, when some women do not want to have children, the three-child policy may provide a space where women face pressure to give birth. As a result, the three-child policy, far from empowering women, can harm women's reproductive rights.

3.2. Data Analysis

Based on relevant data such as China Family Panel Studies and the National Bureau of Statistics, the following analysis is made on the fertility intention and fertility status of Chinese women. The 2018 survey of CFPS data about fertility attitudes shows that the number of ideal children of various birth groups is declining. The decrease may result from family planning policies, on the one hand. On the other hand, the "post-80s" and "post-90s" generations do not desire a large family. This is because of the lack of siblings in their growth. They have a preference for a single child [12].

In recent years, fertility intentions have shown a continuous downward trend. According to a survey released by the National Health Commission on the average number of children intended to have children among women of childbearing age, the number was 1.76 in 2017, 1.73 in 2019, and dropped to 1.64 in 2021 [13]. It can be seen that women's willingness to have children continues to decline. Even if the government introduced the three-child policy with economic subsidies to encourage childbearing, the effect is still not obvious.

In terms of the current situation of female fertility, the data of the seventh national census show that the total fertility rate of women of childbearing age is 1.3 in 2020 in China, which is already at a low level. The National Bureau of Statistics explains that the COVID-19 epidemic increases the uncertainty of fertility and causes residents to reduce their willingness to have children. Therefore, fertility levels changed not only because of policy factors, but also due to the impact of economic, social, cultural, and other factors [14].

Overall, women's fertility intentions and fertility rates are declining, while fertility intentions are still higher than fertility rates. This proves that women do not reject the act of procreation, but as a result of many constraints, such as economic pressures and job market discrimination mentioned above, they are unable to exercise their reproductive rights. Although the three-child policy may provide financial subsidies to these couples who plan to have children, the amount of these subsidies is too meager to have a child or even raise a child. Besides, the three-child policy even affects other areas that are closely related to women's reproduction. Thus, policies and economic, social, and cultural factors, all affect the level of fertility [14].

However, the three-child policy promotes fertility through policies in the name of the state, resulting in a rebound in births and an improved demographic structure. In this way, people are instilled with ideas such as encouraging women to have children. For women, when the idea that births outweigh work or other personal values becomes mainstream, society will subtly evolve relevant cultures and environments. Therefore, it will suppress women's autonomy in childbearing more strongly. At the same time, the rise in the birth rate and the alleviation of population aging uses the female body and sacrifice some of the interests of women for the sake of society. For example, childbirth inevitably leads to increased costs for employers due to maternity leave. As a result, women often suffer from discrimination in the labor market. In particular, women are shackled by their children after childbirth, so they still face the problem of unfulfilled labor security rights [15]. Therefore, the vague encouragement of women to give birth can lead to women having to sacrifice their social rights and interests. Their autonomy to exercise reproductive rights is restricted.

The three-child policy is indeed effective in terms of population, and it is a means for the government to solve social problems by using the female body. To a certain extent, it can ensure the realization of women's reproductive rights. However, the policy can also become a double-edged sword. The government may accelerate the use of women's bodies for reproduction in order to achieve economic and social development. Reproduction can become an obligation, even a shackle, for women. As a result, women's reproductive autonomy becomes extremely scarce.

4. Suggestions

4.1. Political Perspective

The third-child policy is imperfect from a policy point of view, and there is a lack of many supporting measures, resulting in the inability to solve the fundamental population problem, and may certainly cause the loss of women's reproductive rights. Directly related to women's reproductive rights are their labor rights, and the two are often difficult to balance. Therefore, improving the relevant labor policies and reproductive policies and balancing the two can guarantee women's reproductive rights. Firstly, supporting labor policies should be introduced to ensure that the labor rights of infertile women, pregnant women, and post-childbirth women are consistent with reproductive rights. The experience of European and American countries proves that public childcare services are a prerequisite for women to participate equally in the labor market. Besides, developed countries have reduced the employment burden on women through the development of a number of employment systems to ensure women's labor rights, such as the maternity leave employment protection system in Australia, the paid maternity or paternity leave system in Austria, the flexible working hours system for female workers in Sweden, and the family cost childcare subsidy measures in France [16]. In this way, women's employment pressure and financial burden can be reduced. Policies such as family allowances for family leave and childcare allowances can help women balance family and employment, reduce the cost of raising children, and have a positive impact on increasing the fertility rate [17]. As a result, women's reproductive rights can be guaranteed.

Secondly, the government should introduce a labor market quota system and clarify the responsibilities of enterprises that violate the rules. In the political sphere, the electoral quota system was seen as a positive measure to increase women's right to political participation [18]. Similarly, such an initiative could be implemented in the labor market, as already being done in some Western countries. The government can stipulate that the number of female employees and pregnant workers recruited by enterprises shall not be less than a certain proportion, and through the empowerment of women, legislation can break down gender discrimination and gender barriers, and clarify the responsibilities that employers should bear after committing illegal acts, such as gender discrimination and not recruiting pregnant employees, through responsibility clauses [15].

4.2. Mental Perspective

In a patriarchal society, women's reproductive rights are not considered independent. Historically, women's reproductive activities were essentially controlled by men. Women generally had little choice about whether they wanted to have children, and how many children. From the beginning of western Greek civilization, women's reproductive function was used as the main means for men to inherit rights and control the family [19]. Such a concept has not changed in today's society, instead, it has solidified in people's minds. However, women have never stopped fighting for their rights. Nowadays, many women continuously fight back against traditional prejudices and sexism for their autonomy in reproduction although changes in traditional thinking and perceptions are often difficult and require support from many sources.

There are several ways to protect women's autonomy in reproduction. The government should carry out publicity campaigns on gender equality and reproductive freedom, and use them to emancipate people's minds, enhance women's voices, and protect their rights to choose whether to have children or not. In addition, both enterprises and citizens should deconstruct women's internal differences and face up to the differences and inequalities between the sexes under the premise of respecting women's values [15]. In this way, it can help people's understanding of the sexes, spread the concept of gender equality and equal rights, and exploit the differences in the physiological structure of the two sexes better. However, this cannot be a one-time process. It takes many years of effort to change people's solidified thinking.

4.3. Economical Perspective

Economically, Western countries have introduced many supporting measures to improve the reproductive system, thereby protecting women's reproductive rights. However, China's social environment is different from other countries, and a prominent problem is that the aging problem is serious, so it is impossible to copy the experience of other countries. It is necessary to learn from the following feasible economic strategies in combination with actual national conditions.

Firstly, the government should introduce gender budgeting. Gender budgeting, as a part of the gender mainstreaming strategy, is a method to empower women and thus advance their status. It requires the government to analyze the performance of resource allocation from a gender perspective and to enable the government budget to have a system of indicators that reflects the well-being of women. It was first launched in Australia and has now become very popular. In France, gender budget analysis has been implemented through legislation; In Sweden, every government department needs to set gender equity targets in the projects in the proposed budget proposal [20].

Secondly, it is necessary to improve the system of maternity insurance and maternity allowances. Compared with the level of foreign birth protection, the level of protection of birth insurance in China is low. In addition, the coverage of maternity insurance in China is not large [21]. Therefore, when the government introduces maternity insurance, it should pay more attention to the improvement of these two aspects. Besides, for the maternity allowance system, the government should increase the amount of the allowance and extend its scope to include the child's diet, education, and growth.

5. Conclusion

Overall, although the third-child policy has some benefits at the social level, it causes a lot of problems for women. All these problems lead to the loss of women's reproductive rights eventually. The specific process of action is as follows. First of all, the introduction of three-child policy is detrimental to women's labor rights. The labor market is still full of gender discrimination. The three-child policy is imperfect without a labor guarantee for women; thus, it is difficult for women to guarantee their labor rights. Moreover, it exacerbates gender stereotypes. The implementation of the

three-child policy promotes a kind of female social responsibility, which is imposed on women, from the perspective of the male gaze. The society can have an extreme atmosphere and culture that is unfriendly to women to consolidate patriarchy. Last, by influencing the economic and cultural areas, the three-child policy leads to the loss of women's right to speak, which in turn affects their reproductive rights and all aspects of rights.

However, safeguarding women's rights and interests is of vital importance to the issue of social fairness and justice, and women's reproductive rights are the key issue. Therefore, the Chinese government needs to pay attention to and guarantee women's reproductive rights from three perspectives: policy, psychology, and economy.

References

- [1] Tencent.com. *The Birth Rate Hit a New Low Since 1949! National Bureau of Statistics: Birth Rate of 7.52 Per Thousand in 2021*[EB/OL] (2022-1-17) [2022-9-3]. <https://new.qq.com/rain/a/20220117A08A1400>.
- [2] Information Office website. *The Information Office of the State Council Held a Press Conference on the Main Data Results of the Seventh National Population Census* [EB/OL] (2021-05-11) [2022-9-3]. www.gov.cn/xinwen/2021-05/11/content_5605842.htm.
- [3] CCTV. *Completion of the Revision of the Population and Family Planning Law, Legal Guarantee for the Implementation of the Three-Child Birth Policy and Supporting Measures* [EB/OL] (2021-8-20) [2022-9-3]. m.news.cctv.com/2021/08/20/ARTImBATjuDmmhi9otvTtRY210820.shtml.
- [4] Health Commission website. *Interpretation Q&A of the Guiding Opinions on Further Improving and Implementing Positive Fertility Support Measures* [EB/OL] (2022-08-16) [2022-9-3]. http://www.gov.cn/zhengce/2022-08/16/content_5705884.htm.
- [5] Jianliang Nie, Ziyue Dong. "Three-child" Policy: Positive Impact, Multiple Obstacles and Response Strategies [J]. *Journal of Guangzhou University (Social Science Edition)*, 2021,20(06):77-84.
- [6] Yueru Li. *Research on the Dilemma and Countermeasures of Women's Rights and Interests Protection under the Three-Child Policy*[J]. *Heilongjiang Human Resources and Social Security*, 2022(07):22-24.
- [7] Lichan Ye. *Improvement of the Legal System of Women's Labor and Social Security Rights at the Reproductive Stage*[D]. *Guangdong University of Finance and Economics*, 2017.
- [8] Jiao Shaolin. *On Reproductive Rights*[J]. *Modern Law Science*,1999(06):86-89.
- [9] Xuerui Zhang, Mengyuan Wei, Zhongyan Han. *An Exploration of China's "Population Problem"* [J]. *Heilongjiang Human Resources and Social Security*,2022(12):46-48.
- [10] Zijun Zhao.*The Study on the Protection of Women's Reproductive Rights under the Context of "Comprehensive Two-child"* [D]. *Gansu University of Political Science and Law*, 2018.
- [11] Lin Fan. *The Analysis of Reproductive Rights*[J]. *Jurisprudence*,2000(09):32-37+42.
- [12] China Family Panel Studies. *Chinese Young People's Willingness to Marry and Have Children and Their Marriage and Childbearing Behavior* [DB/OL] (2022-7-18) [2022-9-3]. www.issp.pku.edu.cn/cfps/xzyj/wxzm/1358338.htm.
- [13] People's Daily Online. *National Health Commission: Women of Childbearing Age Intend to Have an Average of 1.64 Children* [EB/OL] (2022-1-20) [2022-9-3]. https://m.thepaper.cn/baijiahao_16371744.
- [14] Observer Network. *National Bureau of Statistics: The Number of Children in China's Women of Childbearing Age is 1.8*[EB/OL] (2021-5-11) [2022-9-3]. https://www.guancha.cn/politics/2021_05_11_590316.shtml.
- [15] Yue Tai. *Analysis on the Protection of Labor Rights and Interests of Female Employees under the Three-Child Policy*[J]. *China Social Security*, 2022(02):62-63.
- [16] Guixia Huang. *The Guarantee of Women's Reproductive Rights and Labor and Employment Rights: Consistency and Divergence*[J]. *Women's Studies Series*, 2019(05):89-98.
- [17] Kalwij, A. (2010). *The Impact of Family Policy Expenditure on Fertility in Western Europe*. *Demography*, 47, 503-519.
- [18] Dalerup, D., Fleidenval, L., Jingyu Gao. *Quota System: A Quick Follow-up on Women's Equal Participation in Politics*[J]. *Foreign Social Sciences*, 2006(06):61-67.
- [19] Yu Huang. *Women's Reproductive Rights in a Feminist Perspective*[J]. *Lanzhou Academic Journal*,2007(08):100-103+156.
- [20] Lanying Li, Yanqing Guo. *Gender Budget: A New Perspective*[J]. *Contemporary Finance & Economics*,2008(05):27-30.
- [21] Cui'e Zhang, Zhengyi Yang. *The Development Process and Reform Path of China's Maternity Insurance System—Based on the Perspective of Empowerment*[J]. *Health Economic Research*, 2013(01):23-27. DOI: 10.14055/j.cnki.33-1056/f.2013.01.020.