

CHINA'S POPULATION BOMB

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The ascent to power by the Chinese Communist Party (CCP) in 1949 was a period of great turmoil and confusion. Mao Zedong, the Chairman of the Party and the head of government emerged as a powerful and willful dictator, and intellectually the chief strategist in determining China's future and what it would become. In the midst of this turmoil, Mao knew that one thing was certain: the population of the country would rise, and the increase would be large enough and swift enough that it would overwhelm the economy and the government. The national economy, even before WW II had left China deeply in poverty, underdeveloped, illiterate, and without direction or hope. All of this was made worse by the Japanese invasion and later the internal civil war. When the Communists won, few could conceive of them leading China to any bright new future.

But for Mao, one other thing was also certain: that the Communist Party and the theology of State Socialism could and would do exactly that. Mao saw the world in revolutionary terms, where the Great Revolution of Communism would sweep aside the old structures and the old ideas and the old leadership in favor of a militant new leadership with all the answers who would lead China to greatness.

The issue of population growth would be dealt with. Under the CCP, the answer was that the government itself would take control of the economy, own its productive resources, capture its profits and produce a Socialist paradise for China's citizens. Their needs would all be met by the government "from the cradle to the grave". And it was Mao's view that population growth was in fact a great strength to be utilized, and not a threat to be prevented. He envisioned a great surge of dedicated farmers and builders, factory hands and soldiers, all contributing to the glories of the new Socialist economy.

But Mao and the Party ultimately failed totally and disastrously in meeting even the basic needs of the great majority of the Chinese people, and instead, provided them with poverty, starvation and war. In economic terms, the CCP had staked the economic future of the country on a Soviet style centrist planned economy, with almost total reliance on a huge number of State Owned Enterprises, but in the end, they proved capable of providing adequate employment for only about 20% of the workforce. Thus, when Mao died in 1976, he left the country saddled with these State Owned Enterprises, 50% or more of which were operating at a deficit.⁽¹⁾ The country remained mired in poverty, with most of the population still locked into rural/small town lives that could not be made anything but marginal. China still lacked even the basics of social services and most kinds of public infrastructure.

China's Population Bomb

But Mao's death allowed his successors to begin a second revolution of their own. The CCP began, belatedly, to clean up Mao's mess and to design a whole new course of action for the future. The old concepts of the triumph of the workers and the peasants, and the creation of a classless society were mythological, and the country then and now is run by a small ruling elite. But the public seems content to rely on the CCP, even with its horrible track record, because there seemed to be no alternative, since the CCP had been diligent in preventing all opposition or even dissenting opinion. So the Party properly chose to ignore its own history and work hard to establish itself as the new "heroes" of national reform. The CCP has had to abandon the Maoist legacy, redesign the economy, reform the government itself, and manage the consequences of these reforms for the Chinese people and society. This has been a "second Revolution", and it has proved more positive and constructive than the first.

The whole extensive apparatus of state control of prices, production controls, worker job assignments and movement control, the allocation of resources, control of banking lending, import and export controls has been largely abandoned and 80% or more of the economy now operates with relative freedom in the new market based economy.

The great and dominating reality in China today remains its population of 1.3 billion people, 50% of whom still remain in the rural/village/small town environment. When the nature of the workforce is examined, it reveals an enormous "float" of people who are unemployed, underemployed, working in erratic transient and seasonal jobs, or working as part of the illegal informal economy. The CCP greatly feared the likely prospect of huge numbers in this "float" migrating to the cities which were often bad places to live, but anything was seen as better than starving on the farm. The CCP knew that the cities could seldom provide services and infrastructure for its current residents and they would have been totally unable to handle a major migrant influx in any way. The basic policy of the government therefore was to try and freeze the population as much as possible in their current locations, giving the government time to plan out when and under what circumstances the population would be allowed to shift. Basically it was hoped that, as the economy was expanded, new workers would indeed be required, and the government would carefully control the relocation of workers to meet these needs. But in truth, the government ended up abandoning the whole Central Plan system because it did not work and had distorted reality and inhibited economic initiative. Therefore, the government really did not know where and at what pace specific elements of the economy would expand. So in 1979, the government decided vigorously to reemphasize a 1950s program known as the Household Registration System. Under this system, every Chinese citizen was registered at the place of his/her birth and each was then "official" at that place, unless a change was authorized by the government. The point is that, whatever rights or services or entitlements were available to that citizen, they were available only at the official place of registration, and nowhere else. Thus, if a man chose to leave his farm or village and

go to some city to find work, he would have no rights, nor be eligible for any services in that city.

Again, the main purpose of the Household Registration System was population management. It was a strong bureaucratic way for a government official to prevent people from moving around the country in ways that the government was not prepared to handle. Specifically, the system was aimed at preventing an uncontrolled flood of job seekers inundating cities totally unprepared to cope with them. Official residents of cities were eligible for some level of assistance in housing, primary education, health care and pensions. The unofficial migrant would not be entitled to any of these services, and they might also be denied a chance at "official" jobs, or may be harassed by the police for being "illegal".

But the system has largely failed. China now has 230 million migrant people. (2) Migrants have always flooded to the main cities, despite efforts to enhance the economies in rural areas, and the substantial development of enterprises in townships and the larger villages. These township and village enterprises (TVEs) emerged to replace the communes and collectives of the old style. TVEs are often government run collectives; some were converted SOEs that had been dumped on local governments by the national government which was frankly motivated by the desire to get rid of "loser" enterprises which it could never seem to get to work. It was the hope that an increase in local job opportunities would lessen the flow of migrants. In addition, the government gracelessly allowed small concessions in the application of the law. It now allows the issuance of temporary residence permits so that migrants have some added measure of job-seeking mobility, but of course, control is maintained by requiring these temporary permits to be renewed monthly with the police. Nor do these temporary permits entitle the holders to any new access to urban social services, which is why up to 85% of the migrants leave their children at home. Some cities like Shenzhen and Shanghai have begun to offer new basic welfare insurance policies for migrant workers covering accidents and a few elements of basic health care. But employers, operating on razor thin profit margins are very reluctant to sign up for such plans. In fact, there is great concern that any improvement in the lives of migrants simply translates into more migrants. Three-quarters of the migrants work seven days a week; two thirds work more than eight hours per day, and 15-20% work more than 12 hours per day. Working conditions are uniformly bad, and are significantly worse for the young women who tend machines, are paid a pittance, and live in miserable barracks.

Despite these conditions, and the millions of people who still flock to the cities, rural/village areas are still awash with unemployed and underemployed people facing a grim future. TVE industry has also been very unevenly distributed. Less than 3% is in the underdeveloped northwest of the country where the rural population still exceeds 80%.

But in May of 2012, China's government announced that, for the first time in its history, more than 50% of the population now lives, officially or unofficially in cities. It seems clear that the best way -- perhaps the only way -- to solve the problems of rural underemployment and urban migration is to accept the fact that rural workers have to be allowed to migrate to the cities and towns. The rural workforce still contains an estimated 150-200 million surplus workers, and no amount of "rural assistance" is going to dent this enormous fact. The government's attitudes must be changed to one of assistance to migrants to find jobs, rather than punishing them as illegals. They must be offered at least limited access to social services, especially health care. The government has begun to accept this line of thinking. In 2002 and 2003, new policy documents have been issued to redress some of this unfairness and accord equal treatment to migrant workers in most urban settings. Some of the money being spent on building opulent new apartments and office buildings has been shifted into a major program of housing more within the financial capabilities of migrant families. But as usual in China, these policy documents are not worth the paper they are written on unless the leadership in cities face up to reality and act more vigorously to meet the needs of their "floating population".

So now to return to 1979 and the great policy decisions of the new post-Mao regime, the third great policy decision, enacted in 1979, became known as the "one child policy". In 1949, the population of China was about 450 million people. By 1953, it had risen to about 580 million, by 1964 it was 695 million, and by 1979 it had reached more than 800 million. Population projections of the time were stratospheric, forecasting a peak of 1.5 billion by 2035 (in fact, by 2010 it had already reached 1.3 billion). In addition, the growth of the elderly population was equally ominous in policy terms. In 2000, the population of people over 65 was estimated as about 88 million, or 7% of the population. By 2010, that number was 108 million; estimates for 2020 were for 159 million and by 2045, it would peak at 300 million or more than 20% of the population at that time. At the same time, the dependency ratio of retirees to active workers would climb from just over 10% to more than 33%.

So the decision was made to create and enforce a tough new policy of population control, where the intent was, by various means, to limit family size to only one child. The CCP has devised a broad program of population control of which the one child policy is but one facet. The broader program has four main objectives:

1. To control population growth on the assumption that, while the economy would grow under CCP leadership, it would not grow fast enough to deal with population increases, much less permit improvements in the living standards of the whole population.

2. To lock the population into living where they were born, except where the government itself wants to shift people. The main tool of this policy is the Household Registration System.

3. To impose the one child policy by urging, if not actually mandating that most parents have only one child.
4. To reinforce the one child policy by pressing the use of population limiting practices such as abstinence, contraception and deferred marriages.

In the time frame between 1979, when the one child element of the policy was initiated, until 2001, it became obvious that, despite official claims that the policy has prevented more than 300 million births (3), the government had not succeeded in adequately limiting the number of births, nor in stemming the tide of job seekers from the farms and villages to the larger cities, and the CCP faced some decisions with respect to its population control program. One such decision, made in 2001, was in fact to continue the one child policy despite human rights kinds of concerns. Therefore, in December of 2001, Jiang Zemin, President of the People's Republic of China, formally issued Order #63, (4) the "Population and Family Planning Law of the Peoples Republic of China", as earlier approved by the Standing Committee of the National People's Congress.

In its usual fashion, the CCP never mentions population control and speaks only of population planning and development. Nor does this "one child" law ever mandate the one child limit. Instead, it states only that "the State maintains its current policy for reproduction, encouraging late marriage and childbearing, and advocating one child per couple."

The government linked family planning with the prospects of more opportunities for women, including increases in employment opportunities and better education, and it promises improvements in social services to carry out the program. The Order states that the government "may not infringe upon legitimate rights and interests of citizens." In essence, the law was artfully crafted to make bland promises for some better life while carefully avoiding any language about government control, human denial, or enforcement.

While the national State Council, the governing body of the CCP, is stated as the supervisor of the one child policy, its implementation is assigned to everybody else. Program implementation is delegated down to local levels of government, with the CCP role largely confined to "policy". This is the common pattern in China; such delegations are made for most complex and expensive social programs (health care, primary education, pensions, environmental protection) and they are made as "unfunded mandates", meaning that responsibility is not accompanied by any substantial funding from the national government level. Where funding is provided, it tends to be in the form of small categorical grants through several ministries, always totally inadequate, and notoriously seen as ways to reward friends and punish dissidents.

China's Population Bomb

In addition, Order #63 specifically mandates not only the responsibilities of parents, but of all other elements in the country. All government departments, public organizations, schools, hospitals, the armed forces, village committees, resident committees, and public service organizations are expected to "make a success of family planning programs." In addition, departments in charge of education, science, technology, culture, public health, civil affairs, the press, publications, radio and TV broadcasting, and even such organizations as trade unions, professional associations, Women's Federations and Youth Leagues "shall assist the people's governments in carrying out these programs and make arrangements to conduct public education in the importance of the population program and family planning. In the case of migrants to cities, family planning is supposedly shared by "the place where the residence is registered and the place where they are currently living, but chiefly by the latter."

Aside from the objective of population control, the one child only policy is justified by vague references to the prospect of better health services, better maternal and child care, greater opportunities for women, and enhancement of the "general quality" of the population, a phrase that never seems to have been made clear. The apparent presumption seems to have been that money for such social services is a fixed "zero sum" game, and if there are fewer people, the level of service for the rest can be upgraded. The only promise within Order #63 about government social services financing is for funds directly supplied to families participating in the program. This can come either in the form of some reward for participation or it can be benefits such as maternity leave, subsidies during pregnancy, birth delivery assistance, or family planning "surgical operations". The State is supposed to provide technical services of various kinds, but the whole health care system continues to be marginal.

Several things are specifically prohibited under the Order. First and foremost, it is illegal to "perform an operation related to family planning". It is also illegal to "use ultrasonography or other techniques to identify fetal gender, or to bring about sex-selective pregnancy termination for non-medical purposes." Local officials are guilty of crimes if they:

1. Infringe on a citizen's personal rights, property rights, or other legitimate rights and interests.
2. Abuse their power, neglect their duties, or engage in malpractice for personal gain.
3. Demand or accept bribes.
4. Withhold, misappropriate or embezzle funds for family planning and social maintenance fees.
5. Tamper with or issue false statistical data.

Since the administration of family planning is delegated to local officials, the interpretation of Order #63 and related regulatory provisions has created variations from place to place and enforcement is often impacted by local politics or finances. The whole system tends to be closely monitored by local offices of the CCP which are thick on the ground and very powerful. An appeals process is mandated in the Order, but it deals with redresses against administrative processes only, and does not extend to policy or financing levels.

Order #63 clearly signaled the intent of the CCP to continue the one child policy. The seriousness of this commitment is reflected in the nature of its enforcement. A huge bureaucracy has been created to enforce it in ways that go far beyond "advocacy". It is impossible to estimate the number of government officials, SOE officers, urban committees, staff of schools and hospitals, civic groups, and even private companies who are employed to deploy and support one child programs and related services. The program is directed by the National Population and Family Planning Commission which has at least 300 thousand full time paid family planning workers. (5) One study (6) estimated that there were at least 400,000 employees just at the township level, and as many as one million more in China's villages. In total, it is estimated that up to 80 million volunteers or assigned staffers are involved in pursuing the program. Many of these volunteers are highly unpopular because they act like neighborhood spies -nosy, pushy, and willing to "rat out" their neighbors. Cities are full of street committees, or neighborhood committees which pry into reported or potential violations. Various sources including some official ones reveal thousands and thousands of punishments and abuses. Official penalties, legally applied, can include heavy fines (up to several times worker average annual incomes), removal from jobs, loss of social service benefits, and even imprisonment. Far more disturbing are the reports of forced abortions, forced sterilization, and even infanticide. In addition, there are countless reported cases of official abuse and illegalities including the use of hired thugs to attack violators.

Inherent in this pattern is the nature of the enforcing bureaucracy. The CCP remarkably retains a high level of control over the appointment, promotion, transfer and removal of local government officials, down two or three layers. Those officials in charge of population control and one child enforcement are assigned quotas setting allowable limits on population growth and compliance with one child limitations, and the need to obey is deeply ingrained in the hearts and minds of subordinate officials. Failure to meet these quotas can have devastating consequences on careers. Those who fail may lose any prospect for future advancement, or may be transferred or fired. The effect of this kind of pressure has led to desperate and often vicious measures to meet quotas - measures that may be illegal, immoral, brutal and corrupt. Such measures must then be carefully concealed. China is afloat the thousands of revelations about individual personal outrages including threats, beatings, false arrests, firings, as well as

China's Population Bomb

forced abortions and sterilizations. The CCP blandly coasts by these revelations, or blames everything it cannot dodge on local government misconduct.

As it emerged, it became apparent that the one child policy had been designed to be limited in its application to the point that it is really officially applicable to only about 36% of the population. It is strictly applied to married urban couples, but those in the new middle class can afford the relatively minor penalties imposed for second or third children. The law has waivers for ethnic minorities such as the Tibetans or the Muslims in Xinjiang Province, and waivers are also granted for the Special Administrative Regions of Hong Kong and Macau.

Over the years since 2001, the government has slowly and reluctantly allowed some relaxation of control by local governments in the one child program. In instances where a first child is a girl, parents may be allowed to try for a second child, hoping it will be a boy. Where both parents are only children themselves, and may face the prospect of having to care for up to four of their own parents, they may be allowed a second child. Special rules have been developed for a disabled child, or for very poor parents, or for ethnic minorities. Because a lot of latitude is allowed in rural and village jurisdictions, many have authorized two children or even three if the first two are girls. And even though the use of ultrasound equipment is officially illegal, portable ultrasound units seem readily available in rural and village environments, thus enabling gender-biased abortions. And beyond these official relaxations, two other great Chinese skills are at work – lying and cheating. The cheating is usually by parents who ignore the law and feel that they can produce an extra child or two without officials finding out, or that they can bribe their way out of punishment. Officials may well be perfectly willing to accept such bribes, since they believe they can lie in the formal compliance reports submitted up the chain of command. In addition, the relaxation of movement controls now allows people to move around the country, usually seeking jobs. This means that it has become far easier for families to evade family planning official scrutiny.

It has also been argued that a lot of the impact of the one child policy occurred early – between 1970 and 1979 – when the fertility rate fell from 5.9 to 2.9, largely because of "late, long, few" campaigns. It has also been argued that the economics of the new middle class and the reduction of those living in serious poverty have become increasingly important in causing families themselves to limit the numbers of their children.

It is also true that a new sense of reality is worming its way into enforcement of the Household Registration Program. Having failed to stem the tide of rural migration, it is increasingly necessary for the government to shift policy toward facilitating the absorption of urban migrants, and some cautious moves have been permitted. In one example, it became obvious that huge numbers of the children of migrant parents were being deprived of basic education. Under the Household Registration System, such

children were entitled to elementary and secondary education only in the village where their parents were born. But in Shanghai now for example, children have been allowed to attend local primary and middle schools, but were not allowed to attend high schools. In 2010, Shanghai had 390,000 migrant children under age six, and 570,000 children age 15-19 who were not allowed to attend Shanghai high schools. At that time, Shanghai had about 170,000 "official" resident children in high school, so the influx of the migrant children would have overwhelmed the whole system.

China now has an estimated 230 million migrant people, and for them, enforcing the one child policy is seriously dysfunctional. The number of women of childbearing age in this migrant population is at an astonishing 67 million (2011), or about 25% of the national total, and 60% of those who have given birth have done so away from the place of their official household registration. This means that they are not eligible for pre-natal, delivery, post-natal or any other medical assistance at their urban location. Officials of large cities resent the fact that migrants are urgently pressing for greater access to social services of all kinds, since absorbing another 230 million customers is impossibly expensive and would clearly reduce the services available for the locals. At the same time, migrants have become a vital and very cheap part of urban economies. Most urban areas are huge and have enormous industrial zones and informal economies, which is where the migrant workers earn their livings. They provide cheap services for the newly emerging middle class. Opinion polls tend to show acceptance levels for the population control program as high as 70%, but few of these polls seek out the views of the migrant underclass. The "official" residents of urban areas tend to agree with the general policy of national population control because they recognize and benefit from the economic consequences of that policy. They are also fairly accepting of the one child policy because they recognize the world-wide trend for developed nations is naturally to produce fewer children per couple. And yet, other polls repeatedly show that, among all women, more than 70% would like to have two or more children, with 83% wanting both a son and a daughter.

But the one child policy is heavily opposed in rural and village environments and has contributed mightily to the long term conflicts between the country and the city. A large part of this resistance is not just about policy but about enforcement. During the 80's and 90's, the excessive zeal of politicians and family planning officials led to tens of thousands of horror stories about abuses, most of them not acknowledged by officials or reported in the media. Abuses involved direct government intervention in the form of forced abortions, forced sterilizations, heavy fines, firings, beatings and even imprisonment.

For a time in the late 90's and into the new century, the government seemed to be less harsh. In 1983, it is estimated that there were 14 million abortions organized by family planning committees; by 2009, this number was down to 6 million. The government has been making minor but useful concessions on the margins of the main one child policy. The CCP itself appeared to be tolerating some degree of debate over

such concessions and even over the basic question of the need for the policy at all. More recently, many jurisdictions have allowed more exceptions and waivers, and seem to have relied more on incentives or fines than the more draconian assaults on mothers. But by 2001, the CCP had strengthened its resolve and it issued Order # 63. Regularly since then, the CCP has made it clear that the program is here to stay, at least until 2020, and perhaps forever. BBC quoted the Communist Party official newspaper *The People's Daily* saying "We cannot just be content with the current success; we must make population control a permanent policy." (7) The rural population has never been fully reconciled to this aspect of government intervention, and over the years, there have been thousands of protests at many levels of intensity which the media has seldom reported, and the State Commission has seldom addressed.

But perhaps the attitudes of the Chinese people if not those of the government, are changing after all. Two conflicts stemming from the one child policy have seized world attention at last. First, the blind rural rights activist Chen Guancheng made international headlines in 2005 precisely because he exposed a heavy handed campaign of forced abortions and sterilizations by family planning officials in eastern China. (8) For this sin, he was harassed, beaten and later imprisoned in what was clear to everybody as acts of vicious retaliation. His escape from prison, refuge in the U. S Embassy in Beijing, and the later diplomatic negotiations that have allowed him to come to the U. S. placed the Chinese government in an extraordinarily bad light. The CCP and the family planners sought to lay the blame entirely on the misconduct of local officials, but nobody believes that the national party was wholly innocent.

Meanwhile, having learned nothing, family planners and CCP officials in the Guangxi Autonomous Region in southwest China launched a similar intensive campaign in 2007 to enforce stricter population control measures, including more forced abortions and sterilizations and other punishments against an outraged public. (9) Officials precipitated the revolt by requiring mandatory health examinations for women, and forcing pregnant women with no official approval to be subjected immediately to forced abortions. The result was violent clashes between the police and local residents. Rioters smashed up government offices, burned buildings, destroyed files and equipment and overturned official vehicles. The riot police and the rioters fought each other in a series of confrontations lasting four days, and there were some reports of deaths but they could not be confirmed at the time. (10)

Internet accounts report that officials had levied fines (officially termed "social maintenance fees") ranging from 500 yuan (\$65) to 70,000 yuan (\$9,000). These fines were harshly punitive, and were applied as a new added tax for violations previously fined, back as early as 1980. Even worse, witnesses say that the police arrested and detained villagers, illegally searched homes, and confiscated (i.e. stole) anything valuable. Thugs were hired by officials to attack the homes themselves, ripping off doors, breaking windows, and pounding holes in walls with hammers and heavy rods. And it should be noted that there are no legal appeals to the courts, since judges are not

independent but are civil service employees under the strict control of local CCP officials.

The average family in Hauaiji County in Guangdong Province has five or more children. (11) This is surely a lapse in the enforcement of the one child policy, but there were many ways in which the government could have acted. The CCP and the family planning commission settled on a harsh, draconian proposal to force 20,000 abortions and sterilizations over the next six months in a county of less than one million citizens. It is deeply ironic that one technique employed by county officials consisted of buying expensive portable ultrasound equipment that could be transported to rural areas. The use of ultrasound equipment is expressly declared illegal – by anybody – by Order # 63 that established the one child policy in 2001. In addition, ultrasound reveals the gender of the fetus, which is also illegal. Using this equipment and other techniques, abortions for thousands of pregnant women were ordered on the spot, with no recourse. Women were sent to Huaiji County hospital for surgery, and doctors were ordered to perform mandatory sterilization, even after approved pregnancies... As a further outrage, the county financed most of the cost of the abortion program by cutting the salaries of poorly paid city workers.

It seems likely that part of this peasant outrage stemmed from the long and dishonorable history of government corruption, illegal land seizures, low or unpaid wages, high taxes, excessive fees, lack of social services, and all of the other manifestations of an indifferent and inefficient government which seems to have deliberately left rural areas behind in China's urban based economic resurgence.

But the greatest threat of the population bomb stems from the remarkable aging of the Chinese population. According to a report issued by China's National Committee on Aging (2007), China's 150 million population of over 60 million people is expected to grow to 240 million in 2020, and to a staggering 437 million in 2050. China's population is expected to peak in about 2026 and then stabilize. At the time, the fertility rate, which was 2.6 in 1980, will be 1.56, which is too low to produce general population increase. The median age for Chinese by 2050 will be around 48 compared to about 35 now. During the same period, the ratio of workers to elderly will quadruple from 11 per thousand to 42.

The one child policy is closely linked to the new middle class. Part of what is "new" is that this younger generation of single children is less willing to continue the long tradition in which the children accept responsibility for the care of their elderly parents. An only son now increasingly puts priority on enhancing the economic well being of his own family, and fewer are willing to face up to the burdens of supporting two or three or more parents and even grandparents.

Where does this leave these elderly parents? It is easy to assume that they will either buy old age insurance for themselves, or they will rely on social security pensions

China's Population Bomb

from the government. But these elderly lived in an era where huge numbers of them lived in life-long poverty, and few can possibly afford privately funded pensions. And even worse, the CCP and governments at all levels have deliberately ignored the need to provide pension protection. Only about 35% of people have any formal pension protection; this means that about 850 million Chinese have no access to pension protection at all.

Further, it is estimated that almost 50% of pension funds run by local governments are in the red, often because governments can't pay or refuse to pay legally mandated fund contributions. And when pensions are actually paid, most of the amounts are pitifully inadequate.

How does the Chinese government find the funds and the professional competence and skill to expand its pension systems to cover an additional 850 million future retirees? The answer is that it probably can't. The new middle class is probably financially capable of taking care of themselves, but if they are not even willing (or able) to care for their own parents, they are not likely to want to pay huge tax increases to pay for the elderly poor. Therein ticks the bomb.

APPENDIX A

Population and Family Planning Law of the People's Republic of China (Order of the President No. 63.)

The Population and Family Planning Law of the People's Republic of China, adopted at the 25th Meeting of the Standing Committee of the Ninth National People's Congress of the People's Republic of China on December 29, 2001, are hereby promulgated and shall go into effect as of September 1, 2002.

Jiang Zemin

President of the People's Republic of China

December 29, 2001

Population and Family Planning Law of the People's Republic of China

(Adopted at the 25th Meeting of the Standing Committee of the Ninth National People's Congress on December 29, 2001.)

Contents

Chapter I General Provisions

Chapter II Formulation and Implementation of Plans for Population Development

Chapter III Regulation of Reproduction

Chapter IV Rewards and Social Security

Chapter V Technical Services for Family Planning

Chapter VI Legal Liability

Chapter VII Supplementary Provisions

Chapter I

Article 1 This law is enacted in accordance with the Constitution, for the purpose of bringing about a coordinated development between population on the one side and the economy, society, resources and environment on the other, promoting family planning, protecting the legitimate rights and interests of citizens, enhancing happiness of families, and contributing to prosperity of the nation and progress in society.

Article 2 China being a populous country family planning is a fundamental State policy.

The State adopts a comprehensive measure to control the size and raise the general quality of the population.

The State relies on publicity and education, advances in sciences and technology, multi-purpose services and the establishment and improvement of the reward and social security systems in carrying out the population and family planning programs.

Article 3 The population and family planning programs shall be combined with the efforts to offer more opportunities for women to receive education and get employed, improve their health and elevate their status.

Lawful performance of the official duties by administrative departments for family planning and their staff members shall be protected by law.

Article 4 When promoting family planning, the people's governments at all levels and their staff members shall perform their administrative duties strictly in accordance with the law, and enforce the law in a civil manner, and they may not infringe upon legitimate rights and interests of citizens.

China's Population Bomb

Lawful performance of the official duties by the administrative departments for family planning and their staff members shall be protected by law.

Article 5 The State Council shall exercise leadership over the population and family planning programs throughout the country. Local people's governments at all levels shall exercise leadership over the population and family planning programs within their administrative regions.

Article 6 The administrative department for family planning under the State Council shall be in charge of the family planning program and the population program related to family planning nationwide.

Family planning administration departments of the local people's governments at or above the county level shall be in charge of the family planning and the population program related program within their own administrative regions.

The other administrative departments of the local people's governments at or above the county level shall be in charge of the relevant aspects of the population and family planning programs within the limits of their duties.

Article 7 Public organizations such as Trade Unions, Communist Youth Leagues, Women's Federations, and Family Planning Associations, as well as enterprises, institutions, and individual citizens shall assist the people's governments in carrying out the population and family planning programs.

Article 8 The State gives rewards to organizations and individuals that have scored outstanding achievements in the population program and family planning.

Chapter II

Formulation and Implementation of Population Development Plans

Article 9 The State Council shall make plans for population development and incorporate them into the national economic and social development plans.

Based on the plans for population development nationwide and such plans by the people's governments at or above the county level shall, in light of their local conditions, work out such plans for their own administrative regions and incorporate them into their economic and social development plans.

Article 10 People's governments at or above the county level shall, on the basis of population development plans, formulate plans for implementation of the population and family planning programs and make arrangements for their implementation.

The administrative departments for family planning of the people's governments at or above the county level shall be responsible for routine implementation of the population and family planning plans.

People's governments of townships, ethnic townships, and towns, and neighborhood offices in urban areas shall be in charge of the population and family planning programs in the areas under their jurisdiction and shall implement the population and family planning plans.

Article 11 In the implementation plans for population and family planning programs shall be specified measures for keeping the size of the population under control, improving maternal and child healthcare and services, and raising the general quality of the population.

Article 12 Villagers committees and residents committees shall, in accordance with law, make a success of the family planning programs in their own units.

Government departments, the armed forces, public organizations, enterprises and institutions shall make a success of the family planning programs.

Article 13 Departments in charge of family planning, education, science and technology, culture, public health, civil affairs, the press and publication, and radio and television broadcasting shall make arrangements to conduct public education in the importance of the population program and family planning.

The mass media are obligated to give publicity to the population program and family planning for the public good.

Schools shall, in a manner suited to the characteristics of the receivers and in a planned way, conduct among pupils education in the physiology and health, puberty and sexual health.

Article 14 Family planning among migrant people shall jointly be managed by the people's governments of the place where their residence is registered and of the place where they are currently staying, but chiefly be the latter.

Article 15 The State, on the basis of national economic and social development, gradually increases the overall amount of funding for the population and family planning programs. People's governments at all levels shall guarantee the necessary funding for such programs.

People's governments at all levels shall give special support to the population and family planning programs in poverty-stricken areas and in areas inhabited by ethnic peoples.

China's Population Bomb

The State encourages public organizations, enterprises and institutions and individuals to offer financial assistance to the population and family planning programs.

No unit or individual may withhold, reduce or misappropriate the funds for the population and family planning programs.

Article 16 The State encourages scientific research and international exchange and cooperation in respect of the population and family planning programs.

Chapter III

Regulation of Reproduction

Article 17 Citizens have the right to reproduction as well as the obligation to practice family planning according to law. Both husband and wife bear equal responsibility for family planning.

Article 18 The State maintains its current policy for reproduction, encouraging late marriage and childbearing and advocating one child per couple. When requirements specified by laws and regulations are met, plans for a second child, if requested, may be made. Specific measures in this regard shall be formulated by the People's Congress or its Standing Committee of a province, autonomous region, or municipality directly under the Central Government.

Family planning shall also be introduced to the ethnic people. Specific measures in this regard shall be formulated by the people's congress or its standing committee of a province, autonomous region, or municipality directly under the Central Government.

Article 19 Family planning shall be practiced chiefly by means of contraception.

The State creates conditions to ensure that individual citizens knowingly choose safe, effective and appropriate contraceptive methods. Where birth control operations are performed, the recipient's safety shall be ensured.

Article 20 Couples of reproductive age shall conscientiously adopt contraceptive methods and accept technical services specified by the State.

Incidence of unwanted pregnancies shall be prevented and reduced.

Article 21 Couples of reproductive age who practice family planning shall receive, free of charge, the basic items of technical services specified by the State.

The funds needed for rendering the services in the preceding paragraph shall, in accordance with relevant State regulations, be listed in the budget or be guaranteed by social insurance plans.

Article 22 Discrimination against and maltreatment of women who give birth to baby girls or who suffer from infertility are prohibited. Discrimination against, maltreatment, and abandonment of baby girls are prohibited.

Chapter IV

Rewards and Social Security

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

Article 24 To facilitate family planning, the State establishes and improves the social security system covering the basic old-age insurance, basic medical insurance, childbearing insurance, and welfare benefits.

The State encourages insurance companies to offer insurance schemes that facilitate family planning.

In rural areas where conditions permit, various types of old-age support schemes may be adopted in adherence to the principles of government guidance and willingness on the part of rural people.

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 may 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 planning shall enjoy leaves as specified by the State. Local people's government 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 under the Central Government.

When 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.

China's Population Bomb

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

Article 29 Specific measures for conferring rewards specified in this Chapter may be formulated by the people's congresses or their standing committees or the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government, or by larger cities in accordance with the provisions of this Law and relevant laws and administrative regulations in light of local conditions.

Chapter V

Technical Services for Family Planning

Article 30 The State establishes premarital health care and maternal health care systems to prevent or reduce the incidence of birth defects and improve the health of newborns.

Article 31 People's governments at all levels shall take measures to ensure citizen's access to technical services for family planning in order to improve their reproductive health.

Article 32 Local people's governments at all levels shall rationally allocate and make multi-purpose use of health resources, establish and improve family planning technical service networks comprising family planning technical service institutions and medical and health care institutions providing such services and upgrade the facilities and improve the conditions for and raise the level of, such services.

Article 33 Family planning technical services institutions and medical and health care institutions providing such services shall, within the scope of their respective responsibilities, conduct, among different reproductive age groups of people, publicity and education in the basic knowledge about the population program and family planning, provide pregnancy check-ups and follow-up for married women of reproductive age, offer advice and guidance and provide technical services in respect of family planning and reproductive health.

Article 34 Persons providing family planning technical services shall give guidance to citizens who practice family planning in choosing safe, effective, and appropriate contraceptive methods.

Couples who already have children are encouraged to choose long-acting contraceptive methods.

The State encourages research in, employment and wide use of, new technologies and contraceptives for family planning.

Article 35 Use of ultrasonography or other techniques to identify fetal sex for non-medical purposes is strictly prohibited. Sex-selective pregnancy termination for non-medical purposes is strictly prohibited.

Chapter VI

Legal Liability

Article 36 Anyone who, in violation of the provisions of this Law, commits one of the following acts shall be instructed to make rectification and be given a disciplinary warning, and his unlawful gains shall be confiscated by the administrative department for family planning and public health; if the unlawful gains exceed RMB 10,000 yuan, he shall be fined not less than two times but not more than six times the amount of the unlawful gains; if there are no unlawful gains or the said gains are less than 10,000 yuan, he shall be fined not less than 10,000 yuan but not more than 30,000 yuan; if the circumstances are serious, his license shall be revoked by the authority that issued it; if a crime is constituted, he shall be investigated for criminal liability in accordance with law;

(1) illegally performing an operation related to family planning on another person;

(2) using ultrasonography or other techniques to identify fetal gender for non-medical purposes or to bring sex-selective pregnancy termination for non-medical purposes for another person; or

(3) performing a fake birth-control operation, providing a false medical report, or issuing counterfeit certificate of family planning.

Article 37 If anyone forges, alters or trades in certificated of family planning, his unlawful gains shall be confiscated by the administrative department for family planning; if the said gains exceed 5,000 yuan, he shall be fined not less than two times but not more than ten times the amount of said gains;; if there are no such gains or the gains are less than 5,000 yuan, he shall be fined not less than 5,000 yuan but not more than 20,000 yuan. If the offence constitutes a crime, he shall be investigated for criminal liability in accordance with the law.

A certificate of family planning that is obtained by illegitimate means shall be revoked by the administrative department of family planning; if the fault lies with the unit that issues such a certificate, the persons who are directly in charge and the other persons who are directly responsible shall be given administrative sanctions in accordance with law.

China's Population Bomb

Article 38 Persons providing technical services for family planning who serve against rules and regulations to delay rescue measures, diagnosis or treatment, if the consequences are serious, shall, in accordance with relevant laws and administrative regulations bear appropriate legal liability.

Article 39 Any functionary of a State organ who commits one of the following acts in the work of family planning, if the act constitutes a crime, shall be investigated for criminal liability in accordance with law; if it does not constitute a crime, he shall be given administrative sanction in accordance with law; his unlawful gains, if any, shall be confiscated:

(1) infringing on a citizen's personal rights, property rights or other legitimate rights and interests.

(2) abusing his power, neglecting his duty or engaging in malpractices for personal gain;

(3) demanding or accepting bribes;

(4) withholding, reducing, misappropriating or embezzling funds for family planning, or fabricating, tampering with, or refusing to provide such data.

Article 40 Any unit that, in violation of the provisions of this Law, fails to perform its obligation of assisting in the administration of family planning shall be instructed to make rectification and be criticized in a circular by the local people's government concerned; the persons who are directly in charge and the other persons who are directly responsible shall be given administrative sanctions in accordance with law.

Citizens who fail to pay the full amount of the said fees payable within the specified time limit shall have to pay an additional surcharge each in accordance with relevant State regulations, counting from the date each fails to pay the fees; with regard to ones who still fail to make the payment, the administrative department for family planning that makes the decision on collection of the fees shall, in accordance with law, apply to the People's Court for enforcement.

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 law.

Citizens who fail to pay the full amount of the said fees payable within the specified time limit shall have to pay an additional surcharge each in accordance with relevant State regulations, counting from the date each fails to pay the fees; with regard to ones who still fail to make the payment, the administrative department for family planning that makes the decision to collect the fees shall, in accordance with law, apply to the People's Court for enforcement.

Article 42 Where the person who should pay the social maintenance fees in accordance with the provisions prescribed in Article 41 of this Law is a State functionary, he shall, in addition, be given an administrative sanction in accordance with law; with regard to a person other than a State functionary, a disciplinary measure shall, in addition, be taken against him by the unit or organization where he belongs.

Article 43 Anyone who resists or hinders the administrative department for family planning or its staff members in their performance of their official duties in accordance with law shall be subject to criticism and be stopped by the administrative department for family planning. If his act constitutes a violation of the administrative regulations for public security he shall, in accordance with law, be given a penalty for the violation; if it constitutes a crime, he shall be investigated for criminal liability.

Article 44 Citizens, legal persons or other organizations that believe an administrative department infringes upon their legitimate rights and interests while administering the family planning program may, in accordance with law, appeal for administrative review or initiate administrative proceedings.

Chapter VII

Supplementary Provisions

Article 45 Specific measures for family planning among migrant persons and for providing to them family planning technical services, and measures for collecting social maintenance fees shall be formulated by the State Council.

Article 46 Specific measures for implementing this Law by the Chinese People's Liberation Army shall be formulated by the Central Military Commission in accordance with this Law.

Article 47 This law shall go into effect as of September 1, 2002.

END NOTES

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