

China's Full Liberalization of the Three-child Legal System: From the Perspective of Women's Basic Rights

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Abstract. With the increasing aging of China's society, the proportion of labor force population has declined, and the burden of social pension has increased, posing challenges to sustainable economic and social development. Therefore, the country has introduced a three-child policy to encourage fertility in order to deal with various problems brought about by the aging population. However, the protection of women's basic rights is an aspect that cannot be ignored in the comprehensive implementation of the three-child policy. Reproductive right is one of women's basic rights and an important part of human rights. The full liberalization of the three-child policy is actually a further guarantee and respect for women's reproductive rights. However, in the implementation process of the policy, how to ensure that women are not discriminated and oppressed in employment, economy and other aspects while giving birth and raising children is an urgent problem to be solved. Based on the perspective of women's basic rights, this paper will use historical analysis, literature analysis and comparative research to discuss, citing the experience of other countries in the world, and finally give suggestions for the improvement of laws and policies.

Keywords: Women's basic rights, international experience, Three-child policy, Legal system.

1. Introduction

China's demographic structure has changed, as of midnight on November 1, 2020, there were 264.02 million elderly people aged 60 or above in China, accounting for 18.70% of the total population. There were 19.064 million people aged 65 or above, accounting for 13.50 percent of the total population. The old-age dependency ratio was 19.70 percent, an increase of 7.80 percentage points over 2010 [1]. Besides, China's economy and society are constantly developing, so the three-child policy comes into being in this context in 2021. With the improvement of medical level and living conditions, the aging trend of population is becoming increasingly obvious, the supply of labor force is decreasing and the pressure of old-age support for middle-aged people is increasing. In order to actively cope with the aging population and promote long-term balanced population development, China has introduced a three-child policy. The policy aims to encourage fertility, increase labor supply, optimize the population structure, ease the pressure on social pension, and promote the sustainable and healthy development of the social economy. The implementation of the three-child policy not only helps to alleviate the challenges brought by the aging population, but also provides new development opportunities for related industries, such as education, medical care, and maternal and child industries. At the same time, the policy also has related supporting measures, such as medical security, compulsory education, etc., which is also conducive to reducing the economic burden of family birth and raising children, so as to further improve the willingness of residents to have children. In short, the three-child policy is an important measure to meet the needs of demographic changes and economic and social development.

This article is divided into four parts: the content and motivation of China's full liberalization of the three-child policy, the impact of the three-child policy on women's basic rights, the inadequacy of the existing legal system in protecting women's rights and international experience.

2. The Content and Motivation of China's Full Liberalization of the Three-child Policy

2.1. Policy Introduction Process and Main Content

2.1.1. Introduction process of the three-child policy

First and foremost, preliminary proposals and discussions: As early as 2020, some experts such as Ren Zeping put forward the proposal of liberalizing three children, which reflects the country's concern and forward-looking thinking about demographic changes [2].

In addition, policy review and adoption: On May 31, 2021, the Political Bureau of the CPC Central Committee held a meeting to specifically review the Decision on Optimizing the Fertility Policy to Promote Long-term Balanced Population Development. The meeting made clear the direction of further optimizing the fertility policy, that is, the implementation of a couple can have three children policy and supporting measures [3].

Last but not the least, the revision and publication of the regulations. Subsequently, the relevant regulations were revised and passed at the meeting of the Standing Committee of the National People's Congress. The revision clearly advocates age-appropriate marriage and childbearing, and stipulates that a couple can have three children.

The formulation and improvement of supporting policies. In addition to the basic fertility policy, the government has also released a series of supporting measures, such as including the cost of infant care into the special additional deduction of personal income tax and developing universal childcare services, to reduce the parenting burden of families.

2.1.2. Main contents

The main part of the three-child policy is to encourage couples of appropriate ages to have three children. This policy not only focuses on the adjustment of the number of births, but also focuses on the improvement of the quality of births and the service system. Specifically, after the implementation of the policy, couples can choose to have three children according to their own wishes and actual conditions, while enjoying the corresponding social security and public services. In addition, the government has rolled out a series of supporting measures aimed at providing a better growth environment for children and more support for families.

2.2. Policy Objectives and Expected Effects

2.2.1. The goal of the three-child policy

First, optimize the population structure. By increasing the number of new populations, the aging problem is alleviated and the population structure is more reasonable.

Second, it needs to promote long-term and balanced population development. To ensure that population growth is in harmony with social and economic development, so as to provide a solid population foundation for the country's long-term development.

Third, deal with an ageing population. By increasing the supply of labor force, we will reduce the burden of social old-age care in the future.

2.2.2. Expected effect of policy

First, improve the population structure. With the implementation of the three-child policy, the number of newborns is expected to increase, thereby slowing down the aging of the population and making the population structure younger.

Second, it needs to enhance economic growth potential. Adequate human resources are an important driving force for economic development, and the three-child policy is expected to provide new potential for economic growth.

Third, ease the pressure on social security. Increasing labor supply will help ease the pressure on old-age care and medical care in the future.

Fourth, improve the family happiness index. Through a series of supporting measures, the cost of family birth, parenting and education will be reduced, and family happiness and quality of life will be improved.

3. The Impact of the Three-child Policy on Women's Basic Rights

3.1. The Impact of Reproductive Autonomy

The policy has promoted women's reproductive autonomy.

First of all, it is conducive to the enhancement of women's reproductive autonomy: the introduction of the three-child policy provides women with more space for reproductive choice from the legal level, and enhances women's reproductive autonomy. This means that women can decide whether to have a third child according to their actual situation and will, and are no longer subject to strict policy restrictions [4].

Secondly, it is conducive to the improvement of the social atmosphere: with the implementation of the three-child policy, the social attitude towards childbearing has gradually become more open and inclusive, which helps to create a social atmosphere that more respects women's autonomy in making childbearing decisions [5].

The introduction of the three-child policy has brought benefits to women's reproductive rights, but also brought challenges.

First, there is an increased risk of discrimination in the workplace [6]. Despite policy incentives to have children, women may still face hidden discrimination in the workplace because of their childbearing. Some employers may set obstacles to women's career development because of childbearing, affecting women's career promotion and salary treatment [7].

What's more, it is harder to balance family and work. Having a third child means more family responsibilities for women, and finding a balance between family and work is a big challenge. Women may need to make difficult choices between caring for children and advancing their careers.

Finally, there is a conflict between procreation and self-development. With the improvement of education level, women's pursuit of self-development is becoming more and more intense. However, having multiple children can take up a lot of a woman's time and energy, affecting her pursuit of personal career goals and interests. This conflict can make women feel more conflicted and anxious about their reproductive decisions.

To sum up, the three-child policy not only promotes women's autonomy in making reproductive decisions, but also brings certain challenges. In order to protect women's reproductive rights and career development, it is necessary for all sectors of society to work together to create a more equitable and inclusive social environment and provide women with better reproductive protection and career development opportunities.

3.2. Impact of the Right to Physical and Mental Health

3.2.1. Allocation and accessibility of reproductive health service resources

China has made some progress in the allocation and accessibility of reproductive health service resources, but there are still problems such as uneven distribution of resources, uneven service quality, and education and popularization. In the future, it is necessary for the government, enterprises and all sectors of society to work together to strengthen resource input, improve service quality, and popularize reproductive health knowledge, so as to improve the accessibility and equity of reproductive health services.

First, resources are unevenly distributed. Although there are reproductive health service centers in county-level areas and most township and township areas throughout the country, the distribution of resources is uneven, especially in rural areas and remote areas, and the reproductive health service resources are relatively scarce, which is difficult to meet the public demand.

Second, the number of service agencies has increased. In recent years, the scale of China's reproductive health industry has been growing, the number of various reproductive health service institutions has been increasing, and the service network has been improving, which has improved the accessibility of reproductive health services to a certain extent.

Finally, education and access need to be improved. Despite the gradual popularization of reproductive health services, the level of education and popularization of reproductive health needs to be improved, and some people lack understanding of reproductive health knowledge, which affects their use of reproductive health services.

3.2.2. Health risks

Having a third child has many health risks for a woman's body.

First, multiple pregnancies may lead to excessive fatigue of reproductive organs such as the uterus and ovaries, increasing the risk of disease.

Secondly, the incidence of complications during pregnancy, such as gestational hypertension, gestational diabetes, placental previa, etc., has increased, posing a threat to the health of pregnant women and fetuses.

Third, the pelvic floor muscles may be damaged by multiple births, with symptoms such as vaginal relaxation, uterine prolapse, or urinary incontinence.

The increase in the number of cesarean sections may lead to the risk of intestinal adhesion and surgical site adhesion.

Having a third child also comes with mental health risks.

Having a third child means that women need to take on more family responsibilities and stress, which can lead to mental health problems such as anxiety and depression.

Secondly, it has an impact on women's career development. Long maternity and breastfeeding leave can affect a woman's competitiveness in the workplace.

3.2.3. Recommendations to protect older parturients

In the face of the above psychological and physical risks, older women can be protected through the following ways.

First, pre-pregnancy examination. First, perform a comprehensive physical examination, including gynecological examination, cervical screening, ovarian function assessment, etc., to understand whether the physical condition is suitable for pregnancy. If there are underlying diseases, such as high blood pressure, diabetes, etc., need to be treated to stabilize the condition before pregnancy.

Pregnancy Management:

Secondly, timely delivery examination, pay attention to each delivery examination, such as NT examination, non-invasive DNA examination, amniotic fluid p1uncture, drainage color ultrasound, etc.

Thirdly, key indicators such as blood pressure and blood sugar should be monitored to detect and deal with complications during pregnancy in time.

Finally, keep a good rest and rest habit, ensure enough sleep, avoid staying up late.

Second, make adjustments in life style.

First of all, eat a balanced diet, ensure adequate intake of protein, vitamins and minerals, and avoid high-fat, high-calorie foods.

Secondly, appropriate exercise, such as walking, yoga, etc., to control weight and enhance immune function. Stop smoking and drinking, and avoid prolonged use of electronic products to reduce radiation exposure.

Third, give psychological support. Family members should give pregnant women more understanding and support to reduce their psychological pressure.

Pregnant women themselves should also actively face changes during pregnancy and maintain an optimistic attitude.

Fourth, choose a more appropriate delivery method. Choose the right delivery method according to your physical condition and the advice of your doctor. Older women do not have to choose cesarean section, and those who meet the conditions still have the opportunity to have a natural birth.

4. The Inadequacy of the Existing Legal System in Protecting Women's Rights

4.1. Legal System Status Analysis

4.1.1. Implementation of maternity insurance system

The maternity insurance fund shall be raised on the basis of the principle of "payment is determined by revenue and revenue is basically balanced", and the maternity insurance fund shall be established by the enterprise paying the maternity insurance premium to the social insurance agency according to a certain proportion of its total wages. Individual employees do not pay fees. The maternity allowance for female employees during the maternity period shall be calculated and paid according to the average monthly salary of the employees of the enterprise in the previous year and shall be paid by the maternity insurance fund. The fees of examination, delivery, operation, hospitalization and medicine for female workers in childbirth shall be paid by the maternity insurance fund. Maternity insurance and basic medical insurance have been merged and implemented to achieve integrated operation and management to provide more convenient services.

4.1.2. Applicability and enforcement of sex discrimination law prohibition provisions

The Labor Law of the People's Republic of China clearly stipulates that workers are not discriminated against in employment because of their ethnic origin, race, sex or religious belief, and emphasizes that women enjoy equal employment rights with men. When hiring workers, no one may refuse to hire women or raise the standards for the employment of women on the grounds of sex, except for the types of work or posts unsuitable for women as prescribed by the State [8].

The relevant departments shall supervise the recruitment practices of the employers and investigate and punish the employers who violate the provisions of the prohibition of gender discrimination. At the same time, victims are encouraged and supported to protect their rights and interests through legal channels. When victims encounter gender discrimination, they can seek judicial relief by filing a lawsuit with the people's Court. The court will try and decide the case in accordance with relevant laws and regulations to protect the legitimate rights and interests of the victims.

4.2. Deficiency

However, although China has made some progress in the implementation of the prohibition provisions of the sex discrimination law, there are still some challenges and problems. For example, some employers still have implicit discrimination, and the difficulty of obtaining evidence and the high cost of rights protection are also practical problems faced by victims. In addition, China still does not have a comprehensive law that specifically addresses gender discrimination. China's legal system does not pay enough attention to the special needs of women, and there are gaps in the implementation of the principle of gender equality in legislation and law enforcement.

5. International Experience

5.1. Fertility Policies and Women's Rights Protection Practices in Other Countries or Regions

Japan has implemented many favorable policies for maternity. First, there are health manuals and check-ups. Pregnant women can apply for a health handbook at 10-12 weeks of pregnancy, and receive a "pregnant woman health examination subsidy voucher", reducing the cost of pregnancy examination (special items need to pay for themselves). The second is maternity subsidies. Regardless of whether the child is born safely, pregnant women can receive one-time subsidies, 500,000 yen for a child and 840,000 yen for a second child. There is also a subsidy for post-natal services. It includes

one-week postpartum subsidy, one-month postpartum physical examination and three times postpartum breast care. The third is maternity leave and parental leave. Maternity leave can be taken for 98 days, during which the employer must pay two-thirds of the salary. Parental leave can be taken up to the age of one and a half years, and the salary is calculated according to the salary before the leave. Fourth, child subsidies. The monthly allowance is 15,000 yen for 0-3 years old, 10,000 yen per month from 3 years old to primary school graduation (15,000 yen after the third child), and 10,000 yen per month from primary school graduation to 15 years old. Fifth, health care. After joining the National Health insurance, preschool children only have to pay 20% of the cost of medical treatment.

South Korea also has maternity subsidies for new mothers. Starting in 2024, families with babies aged 0-1 will receive a monthly subsidy of 300,000 won (about 1,792 yuan), which will be raised to 500,000 won (about 3,000 yuan) in 2025. The second is parental leave and allowances. Parents with children under the age of one will receive a child care allowance of 3 million won per month when they apply for three months of parental leave. At the same time, the "3+3 parental leave" system is introduced to encourage couples to raise children together. The third is educational support. Public kindergarten education is free, and low-income families can attend university for free from the second child.

Germany also has many preferential policies for pregnant women.

The first is maternity and paternity leave. Pregnant women are entitled to six weeks of paid maternity leave before delivery and eight weeks after delivery (which can be extended to 12 weeks), and fathers of new babies are also entitled to two weeks of paid paternity leave. The second is parental leave and allowances. Both parents are entitled to at least four months of parental leave (two of which are paid) and can apply for a parental allowance of 65% of the net income before the leave (100% for low-income families), with a minimum of not less than 300 euros and a maximum of 1,800 euros. The third is medical security: pregnant women's physical examination, delivery, postpartum examination and infant health care costs are all covered by the medical insurance. The fourth is the child allowance: for every child living for a long time, from birth to 18 years old (or young people who do not have formal work income and are still in school to 25 years old), parents can receive a child allowance from the government.

5.2. Successful Experience and Inspiration

5.2.1. Improve maternity insurance and family support policies

First of all, raise the level of maternity insurance benefits. Increase the proportion and fairness of maternity medical reimbursement, increase the reimbursement items for prenatal and postnatal check-ups according to the number of births and the age of the mothers, increase the reimbursement ratio for childbirth medical insurance, and achieve the consistency of the reimbursement ratio for maternity medical insurance for urban workers and urban and rural residents. Second, expand the coverage of maternity insurance. We will gradually include flexible employment workers in the coverage of maternity insurance to ensure that all women can enjoy the protection of maternity insurance. Third, reduce the burden on enterprises. The maternity insurance fund subsidizes the employer to compensate for the invisible cost of female childbirth actually borne by the enterprise or unit.

5.2.2. Establish a sound complaint and relief mechanism for gender discrimination

First, open channels for complaints. Set up a special machine within the human resources and social security departments, women's federations and other organizations responsible for gender discrimination complaints, to provide pregnant women with convenient channels for complaints. Open complaint methods, through the government official website, social media and other channels, including complaint telephone, email, online complaint platform, etc., to ensure that pregnant women can easily and quickly submit complaints. Secondly, strengthen the investigation and handling. Establish a rapid response mechanism: for complaints received, the relevant agencies should respond quickly and carry out investigation and evidence collection in a timely manner. Verified acts of discrimination shall be dealt with in accordance with the law and regulations. Additionally, increase

the severity of punishment. For employers with gender discrimination, they should be ordered to correct, fined, revoked human resources service licenses and other penalties in accordance with the law, and be included in the human resources market integrity record, and the implementation of dishonesty. At the same time, the amount of compensation for mental damage in employment gender discrimination cases should be appropriately raised, and the illegal costs of enterprises should be increased. Finally, provide relief support. Such as access to justice. For pregnant women with financial difficulties, judicial assistance services can be provided according to law, including reducing and waiving litigation costs and providing legal consulting services.

5.2.3. Promote the application of gender mainstreaming in legislation and policy making

In order to promote gender mainstreaming in legislation and policies, emphasis should be placed on the protection of maternal rights. Relevant laws and regulations should be improved to ensure the implementation of maternity leave, maternity allowances and other rights and interests, and eliminate gender discrimination in employment. When formulating policies, gender impact assessments should be conducted to ensure that policies are equal to men and women. At the same time, we will strengthen law enforcement and punish severely those who violate the rights and interests of pregnant women. Through these measures, we can effectively protect the rights and interests of women in childbirth, promote gender equality, and build a harmonious society [9,10].

6. Conclusion

The three-child policy has had a multi-faceted impact on women's basic rights such as reproductive autonomy and physical and mental health. The legal system has been effective in protecting women's basic rights, but there are also shortcomings. In the future research, China should refine the protection measures of women's rights at all stages of fertility to ensure comprehensive coverage; Strengthen interdisciplinary cooperation and integrate the perspectives of law, sociology and economics; In-depth exploration of the interaction mechanism between fertility policy and social economy and culture will provide scientific basis for policy optimization, protect women's rights and interests, and promote harmonious social development.

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